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Sketches of some  
of the Prominent  
Members of the  
Orange County Bar



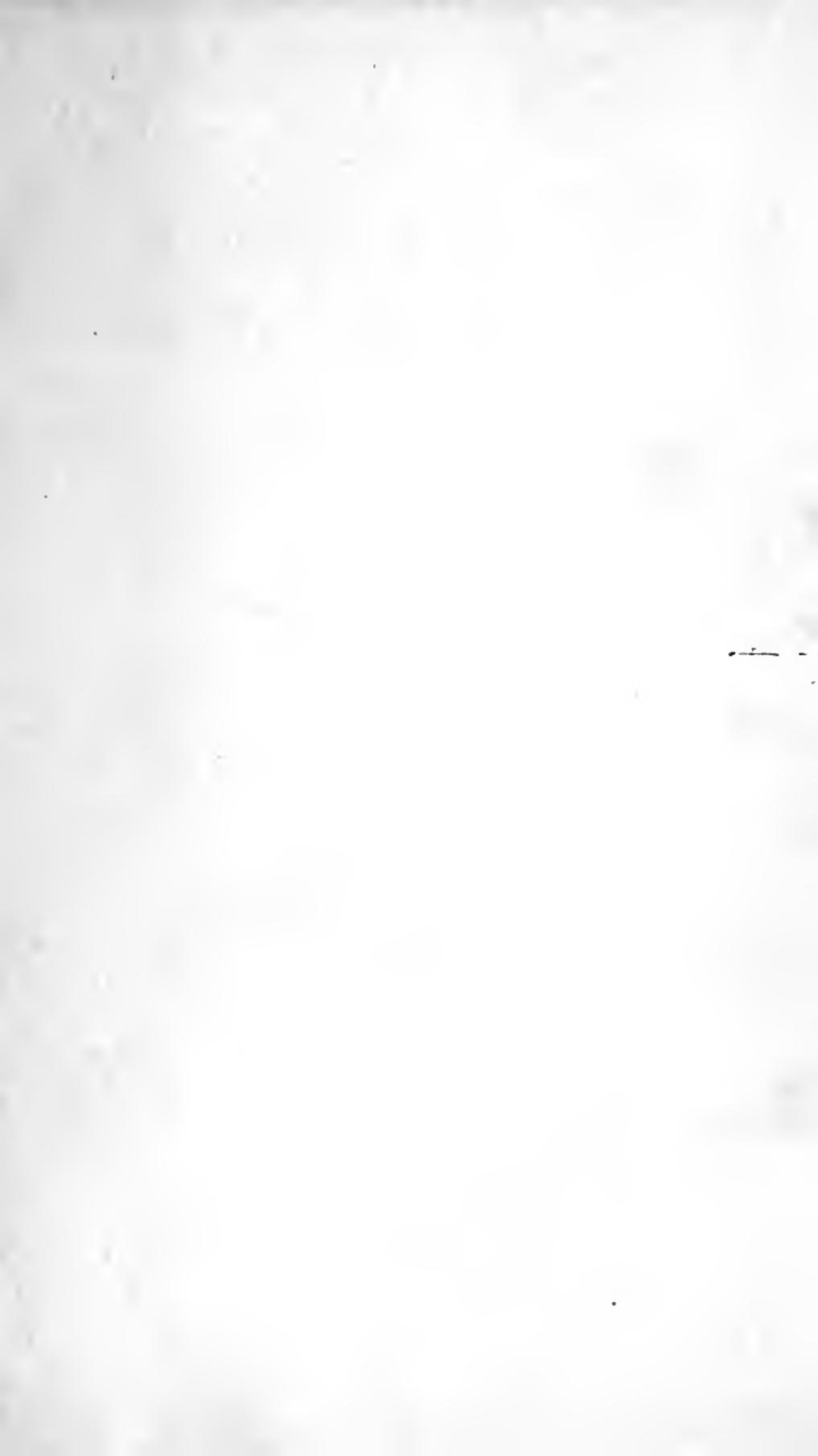
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# S K E T C H E S

OF SOME OF THE

## Prominent Members of the Orange County Bar

Prepared by

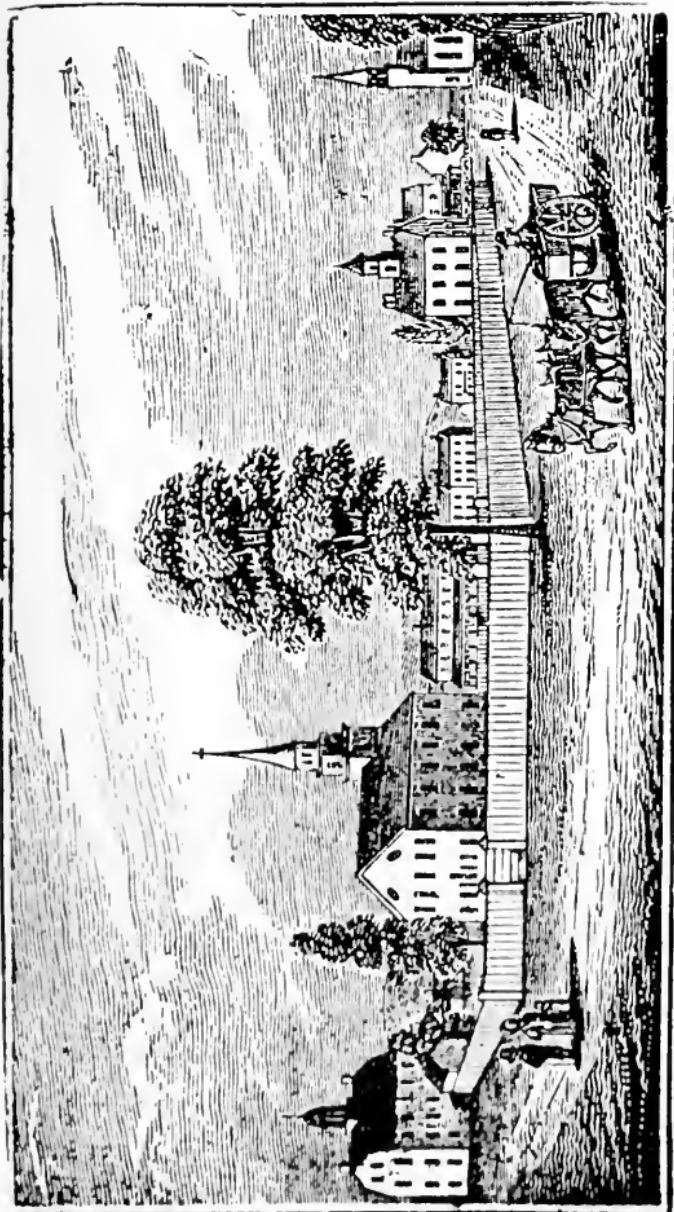
**WALTER C. ANTHONY**

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Published by the

**ORANGE COUNTY BAR ASSOCIATION**





GOSHEN, ABOUT 1820  
(from an old print)



## PREAMBLE

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"To all persons to whom these presents shall come; Greeting!"

'Know ye' that the preparation of this little book is due to a desire on the writer's part to learn and record as much as possible regarding the careers, the characteristics and the personal appearance of the lawyers of Orange County in former days:

The publication of the book is due to the interest felt by the Orange County Bar Association in the lawyers who have shaped the history and moulded the professional ideals of the Orange County bar of this day.

The writer is painfully aware of the imperfections of his part of the work. He owes much to the assistance that has been given by friends, especially by Hon. William Graham, L. L. D.; but even with that help the book falls far short of being what it was intended to be. The most perplexing problem connected with it has been whom shall we include and whom omit? Probably some are included who should not have been and doubtless a number are omitted who were entitled to "honorable mention." If this latter fact is the cause of disappointment or dissatisfaction on the part of anybody I beg him to remember that the work only professes to contain sketches of some of the distinguished lawyers of the county.

The intention was to give in this volume accounts of only such members of our bar as had "departed out of this world" before this work was begun,—to wit before January 1st, 1917. A partial modification of this rule has been made in the case of Mr. Lewis E. Carr.

This has been done because no portrait of Mr. Carr can be found in any publication so far as the writer is informed and unless it was contained in this book the time would soon come when it would be extremely difficult, perhaps impossible, for the younger members of our bar to learn what manner of man Mr. Carr appeared to be.

In fact this last suggestion may be applied with equal force to a number of the men whose careers are sketched in this book. Of several of them no portrait has ever been published; of several others portraits are only to be found in books that are out of print and hard to procure. These facts go far towards justifying the publication of this work.

In a few years it would become well nigh impossible to make a collection of the portraits of the former leaders of our bar which would be as nearly complete as is that contained in this volume.

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If any reader of these 'sketches' is offended by the frequent appearance of the pronoun 'I'—in its various forms—will he kindly remember that in a work of this kind it is extremely difficult to avoid that objectionable feature.

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The writer hopes that the labor involved in the preparation of this little book will be some, though a very inadequate, return for the invariable kindness and courtesy with which he has been treated by his fellow-lawyers during the many years that have elapsed since he came among them and became a member of the Orange County Bar.

WALTER C. ANTHONY.

Newburgh, N. Y.

September, 1917.

## Sketches of Some of the Prominent Lawyers of Orange County.



The bar of Orange County has never been without its full quota of exceptionally able men, but never in its whole history had it a larger proportion of distinguished members than it had during the early years of the 19th Century—or in other words just about a hundred years ago.

Since then we have had many lawyers whose homes were in this county who were men of state-wide reputation; but between 1800 and 1820 there were a number of the members of our bar who were men of national repute. In fact there is a tradition that Aaron Burr had an office at Goshen at that time. Be that as it may it is a fact that as Attorney General of this State under appointment of Governor Clinton in 1789; as a member of Assembly in 1800; and as a member of the Constitutional Convention of 1801 (of which he was chosen President) he was in each instance credited—or should I say debited?—to “Orange County.”

The reason why men of first class ability were content then to settle at a distance from the cities is not far to seek. In the year 1800 the population of Orange County was about thirty thousand and that of New York City was about sixty thousand. Albany had a population of between five and six thousand. Outside of these two cities there was no place of importance anywhere in the State. In fact if Long Island is excepted nearly all there was of the State of New York in the way of population was con-

tained within a strip forty miles wide extending from the East River to Saratoga, the Hudson River being the middle of the line.

This situation which induced some of the most prominent lawyers of the State to maintain their offices at that time in the rural districts was by no means confined to Orange County. In Dutchess County James Kent had withdrawn from active practice late in the 18th Century, when he was appointed Judge of the Supreme Court; Smith Thompson, Thomas J. Oakley, James Emmet (1st) and others were still resident in that County. In Columbia County Martin Van Buren (who ranked among the greatest lawyers of the State prior to becoming its greatest politician); Benjamin F. Butler, his partner, who soon outstripped the senior member of the firm in real forensic ability; and the incomparable Elisha Williams, one of the greatest advocates this State has ever produced if the traditions of the bar are to be credited, were adorning the bar of that County during a number of the early years of the 19th Century.

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To return to Orange County:—Among the group of brilliant and able lawyers who resided here at that time the leader of the bar was unquestionably

### JOHN DUER

who was born at Albany, N. Y., on October 7, 1782, and died at the home of his son, William, on Staten Island on August 8, 1858. His father (William Duer) was an army officer and was stationed at Albany at the time of John's birth, which occurred while the mother was visiting her husband at the last named city.

In early life the subject of this sketch seems to



JOHN DE'ER



have been inclined to adopt his father's profession and at the age of sixteen he entered the military service. Apparently he soon tired of this as he resigned after two years and a little later began to "read law" in the office of Alexander Hamilton in the City of New York. He removed to Goshen in, or about the year 1800, and was there married in 1804 to Annie Bedford Bunner. Ruttenber and Clark's history of the County states that her brother Rudolf Bunner was John Duer's first partner in business. Mr. Duer seems to have continued to make his home at Goshen until about the year 1823. In the year 1821 he was elected as a delegate from Orange County to the Constitutional Convention which was held that year and in that convention he made a deep and lasting impression by his ability and eloquence. The Constitution prepared by that convention was adopted by vote of the people and went into effect on January 1, 1823. The discussions in the convention had emphasized the need, which had been felt for a long time, for a revision of the statutes of the State. This work had been done, nominally, several times prior to 1821—but none of these so-called 'revisions' was anything more than a mere re-enactment in a consolidated form of the existing statutes as they had been passed from time to time, with some amendments, suggested by the revisers or inserted by the legislature; there was no attempt at systematic arrangement in any of them.

As an outgrowth of the work of this Constitutional Convention of 1821 the legislature passed an act in the year 1824 appointing James Kent, (then ex-chancellor), Erastus Root, (then Lieutenant Governor), and Benjamin F. Butler, (then District Attorney of Albany County) to revise the statutes of the State. It may safely be guessed that Kent's selection was due to his standing at the bar; Root's to his official position

as Lieutenant Governor; and Butler's to the influence of Martin Van Buren who had been his partner in business and was then United States Senator. Be this as it may the selection of Mr. Butler was a most fortunate one. He was not only a lawyer of exceptional ability but was an extremely industrious and systematic worker; and he only of the three original appointees continued in the work of revision until it was completed. Judge Kent declined to serve, and the Governor—Yates—thereupon appointed John Duer, the subject of this sketch, to fill the vacancy thus arising, and he promptly accepted the appointment. Mr. Root retired from the Commission in 1825 and the Legislature thereupon passed an act enlarging the powers of the Revisers and substituting Henry Wheaton in Mr. Root's place. This new member of the Commission was at that time the Reporter for the Supreme Court of the United States; later he entered the diplomatic service of this country and in March, 1827, resigned his office as Commissioner and in his place Mr. John C. Spencer was appointed. This appointment was also a fortunate one as Mr. Spencer was not only a lawyer of first class ability but was withal an untiring and indefatigable worker.

He remained on the Commission until its work was completed in 1828 and on the 10th day of December in that year its third\* (and final) report was adopted by the Legislature and became "the law of the land," to take effect January 1, 1830. Meanwhile Mr. Duer had found it necessary to withdraw from the Commission owing to the pressure of his professional engagements, and possibly on account of the additional work involved in connection with the office of United States District Attorney (Southern

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\* Three Special Sessions of the Legislature were held to consider and adopt the (three) reports of these Commissioners.

District of New York) to which he had been, or was about to be, appointed. Butler and Spencer completed the work without further assistance.

It is only fair to Mr. Duer's memory to say that at the time he retired from the Commission—which was late in the year 1827 or early in 1828—its labors were well advanced towards completion. The outline, scope and arrangement of the whole work had been decided on and the Commissioners reports theretofore made to and adopted by the Legislature covered those departments of the law which were peculiarly involved and intricate. It is also due to his memory to say that his fellow Commissioner, Benjamin F. Butler, expressly and openly credited Mr. Duer with having first suggested the plan for "a new and more scientific revision of the statutes," and with being "the soul, the master spirit, of the Commission."

It would be impossible for anybody who was not educated in the law to appreciate properly the importance of the work done by these Commissioners. It has been of the utmost value to the people of this State—and not to them only but throughout the United States, for it has served as the guide and basis of much of the legislation of nearly every State—perhaps of all the States—of the Union. No wonder that one of these Commissioners (Butler) gave instructions that this inscription be engraved on his monument, "A Commissioner to Revise the Statute Laws of the State of New York."

The lawyers of this generation seldom realize, if ever, the confusion and intricacy which marked our legal system—if system it could be called—prior to this revision of our statutes; and the extent and accuracy of the knowledge of the law as it then existed which was required in these men to destroy the old structure and to replace it with the new can hardly be appreciated. If they had done nothing more than write off the

old rubbish by which the title to real estate was sought to be regulated and to replace it with the present system they would have deserved the lasting gratitude of their fellow citizens and of all future generations. It was a jungle, a labyrinth, full of springes and pitfalls: they made it a comparatively plain and open highway—but even yet the wayfaring man, though not a fool, may easily err therein. Even yet the remark made by one of the wittiest lawyers who ever practiced in this County that “a knowledge of the law of uses and trusts comes only through fasting and prayer” holds true to a large extent. It is a strait gate and “few there be that go in thereat.” But this branch of the law which is now “deep” was then bottomless. And that portion of the revised statutes which covers this abstruse subject seems to have been prepared by John Duer! No clearer proof of his surpassing ability as a lawyer could be asked!

As showing the spirit in which this work was done I quote a passage from a letter written by Mr. Duer to one of his fellow Commissioners regarding their work. He says, “Let us act and labor under the belief that we are working for posterity and that great results are dependent (as I am convinced they are) upon our success.” In another letter he says, “I am satisfied that we shall have to work continuously eight or ten hours per day.”

And what was their reward? In part it was the consciousness of a public duty well done. In part the gratitude (now almost forgotten) of their fellow citizens and of their brother lawyers.

And what financially? Mr. Duer and Mr. Spencer each received four thousand five hundred dollars—and Mr. Butler was paid six thousand five hundred dollars. His larger compensation was due to his having been engaged longer in the work and having prepared the indexes.

This compensation (?) was at the rate of about twelve hundred dollars per year. Beggarly as it seems it was far more liberal than the legislature had planned to be, for in the original act appointing the Commissioners it was provided that their work should be completed in two years and that their compensation should be one thousand dollars each!

Mr. Duer held positions of great honor and usefulness later in life, but it may well be doubted whether he was ever able to render another as great and enduring service to the community as he did as one of the Commissioners to revise the statutes of this State. In 1828 he was appointed United States District Attorney for the Southern District of New York and that position he held for a year or two. In 1849 he was elected to be one of the judges of the Superior Court of New York City—a court since abolished but which then had jurisdiction nearly identical with that of the Supreme Court except that it was confined to a more limited territory. In May, 1857, he was appointed Chief Judge of that Court and this position he held until his death. His decisions are scattered through the Superior Court reports which cover the years when he was on the bench and they give evidence of his legal ability and learning.

In addition to the work which he did as a judge he reported the decisions of the Superior Court during the last six years of his life. These decisions constitute the six volumes of "Duer's Reports." He also prepared—though this was done earlier in his life—a treatise on Marine Insurance which was very highly esteemed in its day.

As has been stated already, John Duer's father was an officer in the army of the United States. His mother Catherine Alexander was a daughter of William Alexander, the Lord Sterling of Revolutionary days. Their children were Wil-

liam, John and Alexander and perhaps others of whom the writer has not learned. William was scarcely less distinguished than John, having been a justice of our State Supreme Court for many years. Alexander was also a lawyer and is said to have been in partnership with his brother John at the time the latter removed from Goshen. Alexander married Miss Maria Westcott of Goshen. He died at a comparatively early age leaving two daughters, one of whom became the wife of Judge David F. Gedney. The Duer family inherited, through their mother, an interest in large and valuable tracts of land lying in this County and in Southern Ulster County and they were very possibly influenced by that fact in choosing Goshen as their place of residence. The record of litigation as to some of these lands can be found in the 11th volume of Johnson's Reports at page 364 and again in the 13th volume of same at page 536 under the name of "Jackson ex. dem. Livingston against DeLancey."

In 1804 John Duer married Annie Bedford Bunner as already stated. Their home in Goshen was spoken of for many years after they removed to New York and down almost to the present time as a center of all delightful and uplifting influences. They and other leading citizens of Goshen of that day gave a tone and charm to society in that village which lasted for more than half a century—and for aught the writer knows is still felt.

John Duer is uniformly spoken of by those who knew him as a remarkably eloquent man; a ready and forcible speaker who had all the attractive elements of the orator—a commanding presence, persuasive manners, a melodious voice, an unusually full and choice vocabulary and close reasoning powers. His educational advantages were not good but by diligent study and application he overcame this impediment completely

and became a profoundly learned man not only along the lines of his own professional work but in the broader fields of literature and philosophy. It has been recorded by those who knew him well that he could read Latin, French and Italian without being aware that he was reading a foreign language. Withal he was a Christian gentleman of the highest and best type. Orange County has a right to be proud that the character and career of such a man were so largely shaped in her midst and has reason to be thankful that his influence in behalf of good citizenship and high culture was so long exerted among his neighbors and friends in his early home.

He left several children—one of them, a son named William, was at one time in the diplomatic service of the United States Government; and two unmarried daughters who taught a school on Staten Island down to a comparatively recent date.



### OGDEN HOFFMAN

The subject of this sketch came of a family of marked distinction. His father, Josiah Odgen Hoffman, was a lawyer of very high standing, and his half-brother, Charles Fenno Hoffman, was as well known in literary circles as was Ogden among the lawyers. Murray Hoffman, a cousin of his, was a lawyer of eminence and a justice of the Superior Court.

Some facts appearing in the older reports of the decisions of our courts have led me to suspect that Ogden Hoffman was really named in full for his father "Josiah Ogden" and that he

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NOTE.—A brief, but excellent sketch of John Duer is given in Ruttener and Clark's History of Orange County, and the tributes paid to his memory at the time of his death are prefixed to the 6th volume of Duer's Reports.

(wisely) dropped the less euphonious name. In many of the older cases for instance occurring between 1800 and 1820 the attorney for one of the litigants is stated to have been "J. O. Hoffman;" but about 1820 to 1825 several cases appear in the reports in which one of the attorneys is stated to have been "J. O. Hoffman, Jr." This was doubtless the one whom we know merely as "Ogden Hoffman." See 1 Cowen's Reports, page 45, and again same volume, page 58. In both these cases The Bank of Orange County was plaintiff and in both Hoffman was plaintiff's attorney. In other words it was Goshen business and the attorney was "Ogden" Hoffman in all probability.\*

The elder of these two famous lawyers was celebrated both for wit and for learning and seems to have been as full of mischief and playfulness as a schoolboy all his life. Edwards in his "Pleasantries About Courts and Lawyers" gives several anecdotes of this "learned counselor" of the olden time one of which relates an incident said to have occurred in the Court House at Goshen and which consequently may be not out of place here. Elisha Williams, the famous advocate from Columbia County, was summing up a case. Mr. Hoffman—Josiah O.—in sheer mischief took occasion to inform a brother lawyer sitting near him in the bar that he was afraid one of the jurors did not hear that superb speech as he was very hard of hearing. He took care to say this in a "stage whisper" which would be heard readily by Williams' client who sat close to the gentleman to whom Hoffman spoke. The client fidgetted uncomfortably for a few moments and then pulled Williams' coat tail and whispered to him "speak louder, Mr. Williams." As the speaker was then using

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\* This was not the only instance of this sort in the Hoffman family. Murray Hoffman's name was David Murray, but he dropped the "David."



OGDEN HOFFMAN



the full volume of his powerful (but melodious) voice the client's suggestion was not adopted and presently Hoffman again whispered to his neighbor that the deaf juror evidently did not hear Mr. Williams as he was paying no attention at all to what was being said. Again the client tugged at Mr. Williams' coat and urged him, "For heaven's sake speak louder, Mr. Williams." Everybody in the courtroom began to see the joke except the anxious client and when Hoffman said to his neighbor a few minutes later that Williams would surely lose his case unless he spoke louder the client could control himself no longer and springing to his feet appealed to the Court to direct Mr. Williams to speak loud enough for the deaf juror to hear. What happened next is not stated by Mr. Edwards but no doubt Williams told Hoffman that he "owed him one" and would pay him the first chance he got. Such were some of the pranks of the grave and dignified counsellors of a hundred years ago.\*

Ogden Hoffman—or Josiah Ogden Hoffman (2nd)—if that was really his full name—was born on May 3, 1793, in the City of New York and died in that City on May 1, 1856. His mother's maiden name was Mary Colden. She was a daughter of David Colden who was the youngest son of Lieutenant Governor Cadwallader Colden. Her father was obliged to leave this country at the close of the Revolutionary War on account of his sympathy with the English cause. He and his family went to England. There he soon died and his widow and children, including this daughter, Mary, were brought to this country and made their home with Cadwallader Colden (2nd) at Coldenham in this county. These facts possibly influenced Ogden

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\* The Court House of that day is shown at the extreme left of the picture of Goshen which appears on another page. It stood about where the County Clerk's office stands now. The court room was on the second floor of that building at the west end.

Hoffman in his choice of Goshen as the place where he would study law. He was among relatives who were people of standing and influence.

One of the daughters of this lady, in other words a sister of Ogden Hoffman, Matilda by name, was betrothed to Washington Irving. Her death at the age of seventeen left him so deeply bereaved that he never met another woman whom he could love and as is well known he died a bachelor.

In 1812 the subject of this sketch graduated from Columbia College and in 1814, on the last day of that year, he was appointed a midshipman in the United States Navy. The following year he served under Commodore Decatur on the "President" and with the Commodore was taken prisoner. He seems to have obtained an early release however, for he served again with Decatur in the war with the Barbary States. In 1816 he resigned from the navy, much to the disgust of Decatur who said that he regretted that such a promising man had "left an honorable profession for that of a lawyer."

Soon after this young Hoffman began to "read law" in the office of his father in New York City and a year or two later came to Goshen and continued his legal studies there. At this point in his career there is a bit of obscurity as to his course. Some authorities state that he studied law at Goshen with John Duer; others merely say that he continued his studies at Goshen with a lawyer of that place with whom he afterwards formed a partnership. Furthermore some of the biographical encyclopedias state, in connection with their account of the life of William H. Seward, that he studied law at Goshen in the office of John Duer and Ogden Hoffman. These statements seem to indicate quite clearly that Duer and Hoffman were co-partners in business in or about the year 1820,

at Goshen. The circumstance is not of any great importance of itself, perhaps, but it is certainly of interest when the standing and ability of the two men is taken into account. It is safe to say that seldom, if ever, have two lawyers of such pre-eminent ability and such wide reputation been associated as copartners in business in this County. What a team it must have been! And when the fact that Seward was a student in their office is added we have a group of three of the ablest men in the State brought together in one law office in the quiet little village of Goshen! It is a noteworthy circumstance too that both the members of this firm of Duer & Hoffman (if such copartnership actually existed as it seems almost certain was the case) should have had a military experience—one in the Army and the other in the Navy of the United States—before entering on the study of the law.

Mr. Duer removed from Goshen to New York in or about the year 1823 and Mr. Hoffman followed him to that city a few years later, in the year 1828 or thereabouts. He was elected in 1826 to the Assembly from Orange County and in 1828 from New York. He was District Attorney of this County from 1823 to 1826. At about the time of his removal from Goshen he is said to have formed a copartnership with Mr. George F. Talman but whether it had reference to business matters at Goshen or to those in New York City the writer has not learned. Be that as it may it is certainly a fact that very shortly after his removal to New York he formed a partnership with Hugh Maxwell who was then the District Attorney of that County.

Ogden Hoffman's career after he went to the metropolis was so conspicuously successful and prominent that his fame as a lawyer is probably more widely known than that of any other attorney who ever had his home in Orange County. He filled the office of District Attorney of New

York County from 1829 to 1835; was a representative in the United States Congress for two terms from 1837 to 1840; was United States District Attorney—for Southern District of New York—in 1841; and Attorney General of this State in 1853-4 and 5. This last mentioned office had been filled by his father, Josiah Ogden Hoffman from 1795 to 1802.

As an advocate Ogden Hoffman stood among the very first of his day. To great readiness and fluency of speech he is said to have joined a voice of such rare sweetness and charm, that it led to his being spoken of frequently even to this day as "the flute." For profound learning in the law Mr. Duer was probably his superior but as an advocate Hoffman seems to have been the more popular of the two. In looking at the portraits of the two men which are presented with this article it suggests itself that very possibly Hoffman was the more "magnetic" of the two. He looks it.

Fifty years ago when I was a student in the office of Judge David F. Gedney, at Goshen, he told me this anecdote about Mr. Hoffman. Not many years after he removed to New York he was brought back to this County to defend a man who had been sued for breach of promise of marriage. Mr. Samuel J. Wilkin of Goshen was the attorney for the plaintiff and the trial constituted a battle royal, for when Mr. Wilkin was in good health he was equalled by few and excelled by none before a jury. I speak of his health because he was subject all his life to very intense headaches which were likely to attack him during any exciting trial and which completely prostrated him when they occurred. On the trial of this breach of promise case, however, he escaped without any such attack and when the "summing up" was reached he was in fine shape. Gedney as a boy of twelve or fourteen years was in the court room and listened to the

addresses of these two brilliant men and as he himself told the story he said, "I listened entranced to the speech of Mr. Hoffman and when it ended, and a hush fell upon the audience, it seemed to me that Mr. Wilkin might as well remain silent; that it would not be possible for any mortal man to undo the effect of Mr. Hoffman's address to that jury. But Mr. Wilkin's speech which followed was as much better than Hoffman's as the latter's was better than one that I could have made as a boy at that time." Hoffman had then made a great reputation in New York City and was naturally on his mettle when brought back to try an important case among his old neighbors.

The plaintiff had a verdict for fifteen hundred dollars which in that day was unprecedented. Mr. Hoffman was wild about it for, as he himself stated it, the case was absolutely destitute of the usual aggravating circumstances.

With such examples as these to learn from it is not to be wondered at that Gedney himself became a master of the art of public speaking.

In an indirect way Mr. Hoffman's connection with the affairs of Orange County continued after his death for ten or a dozen years subsequent to that event—in other words about the year 1870 his widow rented the old Sands place just south of the "covered bridge" at Moodna (in the Town of New Windsor) and resided there for several years.

Mr. Hoffman was twice married. His first wife was Miss Emily Burrall, whose father, Jonathan Burrall, was at that time the cashier of the Orange County Bank. Their marriage occurred on June 27, 1819. By her he had two sons, Charles Burrall and Ogden. His second marriage was to Miss Virginia E. Southard. It occurred on November 15th, 1838. The issues of this marriage were a son—Samuel Southard and two daughters Mary Colden and Virginia

Southard. The daughters are now (1916) living in London, England.

His son Ogden was Judge of the United States District Court for California for many years. He died in San Francisco about the year 1891. Judge Gedney used to speak in the highest terms of the conversational charms of this Judge Hoffman. In this respect Gedney claimed that the younger man surpassed his father. Judge Gedney said that he and the younger Hoffman when they were lads together would often go out of a morning gunning, and that many a time when they had been out an hour or two they would sit down and rest on a fallen tree or a flat rail on a fence and there they would sit and talk the livelong day forgetting everything else until the sinking sun reminded them that their day's hunting was ended. They must have been wonderful talks for Gedney himself had very great conversational charms.

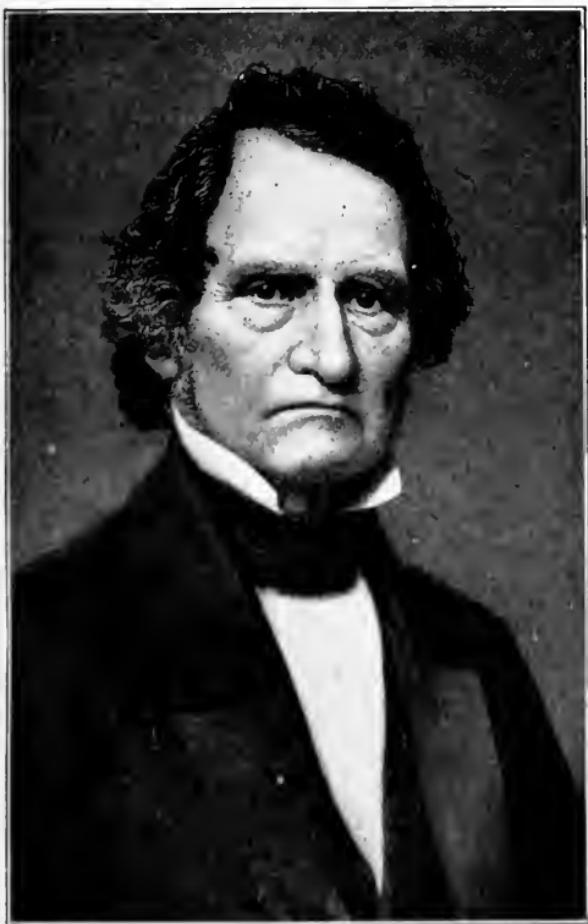
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### SAMUEL J. WILKIN.

Born December 17, 1793. Died March 11, 1866.

Late in August, 1864, I entered the office of David F. Gedney, at Goshen, as a student. At that time Lincoln's second campaign was under full swing. There was an important meeting of Republicans to be held early in September—an evening meeting—at Agricultural Hall which then stood about where the grand stand of the race course is now.

It was announced that Hon. Samuel J. Wilkin would preside, and his active participation in a political meeting seemed to be regarded as quite an event. So much was said about it among the people I met and Mr. Wilkin's high standing and marked oratorical ability were so frequently



SAMUEL J. WILKIN



mentioned that I was all curiosity to see him and hear him speak. When the meeting was organized and Mr. Wilkin took the chair I saw a slender old gentleman, of distinguished appearance and manner, whose hair, still dark though streaked with gray, was very curly and whose dark gray eyes were very piercing. His voice was full and melodious, remarkably so for a man of his age,—he must have been nearly three score and ten years old. He made a few appropriate remarks acknowledging the compliment, etc., and they were smoothly and effectively expressed. Then a disturbing incident occurred. The speaker of the evening failed to arrive owing to his train being half an hour late and Mr. Wilkin was entreated to keep the audience together until the train arrived. He spoke for about half an hour and his remarks were obviously unpremeditated and absolutely extemporaneous. What he said was to the point and well said but several of his friends said to me later, "He is not the man he was in his prime." I was more than pleased however to have heard a man of Mr. Wilkin's reputation make a public address. There are few now living who have had that pleasure.

Later, as I saw Mr. Wilkin passing to and fro on his daily trips to the Post Office I observed a marked resemblance between him and a portrait I had seen of Rufus Choate, the famous Boston lawyer. I spoke of this to Judge Gedney and he told me that such resemblance had been noticed and spoken of several times before, especially by people from Boston who saw Choate frequently; and recently I have been told by Mr. R. C. Coleman, son-in-law of Mr. Wilkin, that the latter was not infrequently addressed as 'Mr. Choate' when in New York, Albany or Washington. Such resemblance undoubtedly existed and was quite striking and there was much in the character, temperament and methods

of the two men, in which they resembled each other. Wilkin, like Choate, was a rushing torrent in speech—fiery—figurative—vehement—and when angered terrible in his invective.

He himself told me an incident which illustrates these traits of his character,—for I became fairly well acquainted with him later and called occasionally at his house, as like all lonely old men he was always glad to see younger people. In an action he tried in New York City his opponent, being a metropolitan lawyer, went out of his way to speak in a supercilious tone of Mr. Wilkin as a country lawyer, a man from the backwoods, or something of that sort—something at all events which aroused Mr. Wilkin's indignation—and as he stated it, "When it came my turn to address the jury (I was for the plaintiff) I paid my respects to my opponent in no measured terms. I don't know just what I said but it must have hit hard for he caught up his hat and left the court room in haste before I had been speaking ten minutes; and when I left the room an hour later (with a verdict in my favor) my opponent was walking up and down the corridor and grasping my hand he exclaimed, "For God's sake don't do that again to me, Mr. Wilkin."

In all his ways and methods whether professional or social Mr. Wilkin was a gentleman of the old school, a refined, educated and scholarly man. One of his literary diversions was the perusal of the 'Odes of Horace' in the original. Usually he was a serious man and intensely in earnest but his humor was keen and delightful. Once in conversing with him as we were speaking of the virtue of economy I quoted a line from Burns, "She gars auld claes leuk amaist as weel as new," and he replied, "Well some people don't look at it in just that way. There is the English wit (he gave the name but I have forgotten it) who says, 'A rent may be looked upon as the

accident of the day, but a patch is an indication of premeditated poverty'."

As a slight indication of Mr. Wilkin's style of stating a point let me give the sentence with which he is said to have closed his argument in an important will case in which he was for the proponent. "And now, Mr. Surrogate, let me say in closing, that if you reject this will upon the grounds urged here you will, in effect, inscribe upon the tombstones of half the men in Orange County, 'HE DIED INTESTATE'." Spoken in his forceful, impressive way, this is said to have been a very telling peroration.

From Hon. William Graham, L. L. D., of Dubuque, Iowa, I have a brief mention of a Fourth of July oration which he heard Mr. Wilkin deliver and which he describes as "eloquent and in some passages brilliant" and of his summing up in defence of a young woman from Middletown who had been indicted for larceny. Mr. G. says the address was masterly though it failed to get a verdict, the jury standing eleven to one for acquittal. Mr. Graham adds that the trial nearly disrupted Middletown.

At the time Mr. Wilkin was in active practice there was a lawyer named Bradner—Coe G. Bradner—whose headquarters were in the western end of the County somewhere, whose business methods were very unsatisfactory to all the reputable lawyers of the County and particularly to Mr. Wilkin. Several times an effort was made under Mr. Wilkin's leadership to "throw Bradner over the bar" but each time something occurred to "save his bacon." Mr. Wilkin once in discussing the matter remarked, "I wondered for years why Coe G. Bradner had been created and why he was permitted to live. But I have solved the problem:—he is here merely to prove the truth of the old Presbyterian theory of 'Total depravity'."

This Bradner was assaulted and battered as

he claimed by one of his clients and brought suit to recover his alleged damages. In order to show malice he sought to prove that the defendant had threatened before the assault that he would 'go through Coe Bradner.' As a matter of course Mr. Wilkin was attorney for the defendant and in his summing up he described what a startling experience anybody would have who should really "go through" Coe G. Bradner. He closed by remarking that the Harpers' could reap a fortune by publishing "A Journey through Coe G. Bradner, or Explorations in the Wilderness of Sin."

Mr. Wilkin's home was in Goshen during his whole lifetime except for about five years when he attempted to establish himself in New York City; but the hurlyburly of business there was too great a strain for one of his nervous temperament and rather delicate constitution and he was obliged to return to his home in the country.

I am reluctant to close this article with such an imperfect and unsatisfactory glimpse of Mr. Wilkin. He was really a most interesting and attractive man and well worthy to rank with the two—Duer and Hoffman—whose careers have been sketched in the preceding pages of this volume. His educational opportunities were better than theirs as he was an alumnus of Princeton College (as was also his father General James W. Wilkin). Moreover he was more completely an Orange County man than either of those two as he was a native of the County and excepting his brief residence in New York City his whole life was spent here, which was not the case with either of the others.

Among the older lawyers of the County in my early days it was conceded by all that nothing prevented Mr. Wilkin from becoming a leader of the bar of this State except his unstable health. He was subject to extremely severe

nervous headaches which were liable to attack him at the most inopportune times.

Judging from his reputation among those who had known him in his prime I am doubtful whether any son of this County was more richly equipped for success at the bar than Samuel Jones Wilkin. He was a son of James W. Wilkin who was himself well worthy of a place among the "Great Lawyers of Orange County"—but he passed off of the scene of action so long ago that no traditions in regard to him survived to my time. All that is known about him is stated in Ruttenber & Clark's History of the County.

In order to show the principal events of his life I add a memorandum of the public offices held by the subject of this sketch.

Appointed in 1850 a Canal Appraiser—but declined.

Member N. Y. State Senate—1848-1849.

Member Assembly—1824 and 1825.

District Attorney—May 28th to May 30th, 1835.

Member 22nd Congress—1831-1833.

He seems to have held the office of District Attorney of this County for only two days. In that day the office was an appointive one and he doubtless declined the appointment.

In the year 1816 he married Sarah Wescott. Their children—(who lived to adult age)—were, Mary, wife of Joseph Ellis, of Mobile, Ala.; Alexander—who became a Captain in the United States Army; Wescott—who became a Judge of the District Court of Minnesota; and Sarah W., who became the wife of Hon. Roswell C. Coleman and was beloved by everybody who knew her.

As is the case with most of the distinguished lawyers his family name will not be perpetuated among his descendants.

## JONATHAN FISK.

This gentleman could not properly be omitted from these sketches of the distinguished lawyers of Orange County for he was undoubtedly one of the most famous members of our bar in his day.

Unfortunately all traditions relating to him—save that he was an exceptionally able and brilliant lawyer—have faded out and all that I can state in regard to him is compiled from the “History of Orange County and Newburgh” by E. M. Ruttenber. The portrait which accompanies this article is taken from the same source.

Jonathan Fisk was born at Amherst, N. H., on September 26, 1773. At the age of 19 years he left home and obtained occupation as a school teacher, holding a certificate which stated that he was qualified to teach writing, English grammar and arithmetic. In 1795 he had received another certificate stating that he had lived for several months in the family of Amos Wood at Ware, N. H., where he had “read Greek and Latin and attended to other branches of study, by which he appeared well qualified to teach a school” and that he had “maintained a good moral character.” In 1796 or '7 he began to study law in the office of Peter Hawes in New York City. He was without means of support other than what his own industry could furnish but earned enough by acting occasionally as an amanuensis and by giving instruction to a class of young men in the evening to enable him to complete his studies.

In 1799 he was admitted to practice in the Court of Common Pleas of Westchester County; in 1800 in the Supreme Court of the State and in the Common Pleas of Orange and Ulster Counties. In 1800 he removed to Newburgh. In 1802 he was admitted as a Counselor of Law in all the courts of the State of New York.



JONATHAN FISK



He continued to reside in Newburgh until 1815 when he was appointed United States District Attorney—for the Southern District of New York—whereupon he removed to New York City where he continued to reside until 1820. In this latter year he returned to Orange County and purchased a farm a short distance west of the (present) City of Newburgh—(the Lynde Belknap farm)—and there he continued to reside during the rest of his life. His death occurred on July 13, 1832.

Prior to his removal to New York City he had been twice elected to Congress—viz in 1808 and in 1814. The office he resigned in June, 1815.

The account from which the foregoing facts are taken adds: "As a citizen Mr. Fisk was highly esteemed. The town records, the files of our public journals and his own manuscripts bear testimony to the commanding position which he occupied and to the superiority of his abilities. The most important cases were submitted to his care. \* \* \* In person he was large and of a presence that impressed all with whom he had intercourse with a sense of his superiority."

While in Congress he incurred the displeasure of John Randolph—(of Roanoak)—who vented some of his acrid remarks upon Mr. Fisk but the latter retorted with such vigor as to win Randolph's respectful and friendly regard. He seems to have retired from active practice at the comparatively early age of forty-seven. What may have been the reason for this is nowhere stated in the account of his life. There was some fault found in regard to the fees exacted by him while holding office and a congressional investigation followed. Fisk is said to have been exonerated—but possibly his business may have been seriously affected.

It does not take much to ruin a lawyer's prospects.

## THOMAS McKISSOCK.

Born April 17, 1790. Died June 26, 1866.

In the Daily City Press (Newburgh) of Monday, July 2, 1866, appears the following obituary notice:

### “THOMAS McKISSOCK”

“On Saturday last the mortal remains of the late Thomas McKissock were committed to the grave in the presence of a large circle of sorrowing friends. The services at the church were chaste and appropriate and free from the fulsome eulogy which too often disfigures such solemnities; while the brief exercises at the grave, a part of the sublime and beautiful Episcopal burial service, were rendered in a manner mournful and solemnly impressive.

“It was grateful to know that his death was preceded by no protracted illness, no suffering and no mental alienation, but the powers of his physical nature seem to have worn themselves out and he passed away as placid and tranquil as the infant sinks to rest upon the mother’s lap. The end of such a man demands something more than the usual passing notice, for he had filled many important trusts, had been identified with much of the prosperity of this city, and left an example of professional rectitude and excellence which his younger brethren should not fail to imitate. He had attained more than the usual age allotted to his kind—for he was seventy-six years of age—had survived the gentle companion of his youth and manhood more than twenty years, and had seen his children prosperously and usefully settled. The object and end of his existence seems to have been attained for he left none of its duties and obligations unfulfilled.

“The deceased had not the advantage of what is termed a university education. He had no diploma from a college or other literary corporation. But he possessed that which colleges

## THOMAS MCKISSOCK

BORN - April 17, 1790

DIED - June 26, 1866

No Portrait could be found. He  
was one of the ablest lawyers of  
his day.



and diplomas do not always impart,—a moderate acquaintance with the Greek and Latin classics, a good store of professional learning and the principles of jurisprudence, and was well versed in history and English literature. He had studied medicine in his youth and made himself somewhat acquainted with the kindred sciences of botany, chemistry and anatomy. This was of great service to him in the profession to which he afterwards devoted himself. The leading characteristics of his mind were strength and power of analysis and deduction. He would separate the various propositions of an argument with great subtlety and power, exhibiting them in their various phases and aspects, and enforce his deductions with illustrations both apt and beautiful. His arguments in the courts were oftentimes a rare intellectual treat (as those will remember who had the happiness to hear him) sparkling with wit and humor which came spontaneously and unbidden from his well-stored memory and glowing imagination, as the lightning breaks upon the distant horizon in the twilight of a summer evening. Passages from the Scriptures, quotations from the best English writers and allusions to the great actors and events of history were freely employed to enforce and embellish his arguments.

"He had a happy and genial temper, with a keen sense of the ludicrous, seeing mirth and amusement in incidents unnoticed by others. These qualities, added to fine conversational powers and a large store of entertaining anecdotes, rendered him a most agreeable companion. He had been well instructed (as the children of most Scotchmen of his time were) in the faith and doctrine of the Presbyterian Church, of which his father was a conspicuous member, and had a firm belief in the leading truths of the Christian religion. He was too liberal and too enlightened not to recognize that some of the

incidents related in the Old Testament had been put in doubt by the discoveries of modern science, and the researches of learned men into the origin and early history of our race; but this did not impair his belief in the fundamental doctrines of the New Testament dispensation.

"In politics he was a Whig and a fast friend of Henry Clay during the lifetime of that statesman. He never acted or sympathized with the Republicans, for his legal studies had rendered him familiar with the limitations of the Constitution and our complex and double system of government by the union of the States as well as by the States themselves acting within their appropriate spheres. He saw, or thought he saw, a tendency in the Republican leaders to break down this distinction and to enlarge the powers of the general government by circumscribing those of the States. This heresy he resisted with all his strength. He thought too that the war, by temperate means, and moderate counsels, might have been avoided. But when he saw his country committed to the dread alternative, and blood had flowed and men had fallen on the battlefield he promptly ranged himself on the side of the nation and exhorted his countrymen, in the public assemblies, to spare neither blood, nor treasure nor anguish nor suffering for the protection and preservation of their great inheritance of free government. He, and such as he, have received little credit for what they did; but the time will come when the nation will recognize their patriotism and public spirit.

"If we should be asked to name the particular qualities, moral or intellectual, to which Thomas McKissock owed the strong hold he had upon the public esteem, and his acknowledged power and influence in his profession we should say, principally his candor and ingenuousness, his manliness and moral integrity. He disdained to conceal what he was or what he thought. While

he revered learning and genius and talent, from pretentious mediocrity and pompous dullness he turned away with unaffected contempt. Shams or pretenders he could not endure. Men do not realize the temptations which constantly beset a lawyer in large practice. The weak and the feeble, the ignorant and unprotected are often in his power; and if he yields to the dictates of greed and avarice rather than to those of mercy and justice he may use his position to enrich himself and perpetrate wrongs of which the world will never know.

"The subject of this sketch was proof against these temptations for no taint of dishonor or professional misconduct was ever associated with his name, and it may be safely averred that the man or woman does not live who can say with truth that he ever knowingly did them wrong or did them wrong as the instrument of others. When we remember that his practice embraced a period of nearly half a century this is great praise. Whatever other faults he had he did not enlarge his fortune with the spoils of helpless, unprotected and confiding people.

"Faults he doubtless had but they were more than compensated by his many virtues.

"He had some professional defects which we should not omit to notice. His handwriting was wretched—so illegible that few could read it without effort. This embarrassed him in the preparation of his papers and made laborious and irksome that which otherwise would have been a source of real pleasure. Had the remedy been applied at the outset of his career it could have been overcome. He was careless and slovenly in the arrangement and disposition of his books and papers so that they were not always at his command. Exact business men will understand this and see that these things were formidable impediments to successful progress. He had also a habit of procrastination,—of postponing

until tomorrow that which should have been done today,—which often led to loss and inconvenience. He was also singularly indifferent to the acquisition of property. This was a great defect, for wealth, united with such moral and mental qualities as he had is a just source of legitimate influence and imparts to the possessor the power to do good which cannot be found elsewhere. The love of money is said to be the root of all evil. We do not accept the truth of the maxim in its application to modern society. On the contrary the love of money, tempered with moderation and honesty of purpose, is thought to be the foundation of much good. It is oftentimes the first step in the improvement of men of indifferent character. The liberty and the power to acquire property and the comforts and refinements which property and wealth alone can impart, has done more for the elevation and progress of the downtrodden classes of mankind, than anything else that can be named. The deceased's indifference to the accumulation of wealth was the result, probably, of his nature joined to the assurance that the income from his professional labors would be sufficient for the gratification of his moderate desires.

"Such are some of the outlines of *Thomas McKissock's* character, furnished by one who knew him well in his youth, his manhood, and in his declining years, and who during that long period received many proofs of his friendship and regard. Peace to his remains. May he long be remembered as an example for the imitation and encouragement of others. May the flowers that bloom above his grave grow fresher and fairer and more fragrant with each succeeding year. And may we not humbly and reverently hope that the spirit which animated the frail tenement committed to its kindred dust has been summoned by the Divine Creator to a higher and nobler state of being, the blessedness of

which no eye hath seen nor hath it entered into the heart of man to conceive."

William Graham, L. L. D., of Dubuque, Iowa, writes as follows about Judge McKissock:

"In my early days, even before reaching my teens, I used to hear a great deal about the firm of Newburgh lawyers, Bate and McKissock, but while the firm name was mentioned the talks were always of McKissock. Possibly this was because he was a native of my home town, Montgomery, and received his education at Montgomery Academy. His father, Thomas McKissock, was an Elder in Goodwill Church, and one of the company who seceded and built the church at Berea. His son after leaving the Academy studied medicine, and was admitted to practice. He began in his native town with his office completely furnished according to the requirements of that day. I remember hearing the story told that his first call was to attend a woman in her confinement, and he was so overcome with sympathy for her sufferings that he drove off to the nearest doctor, and sent him to attend the patient, while he went home and closed his office, disposed of his library and instruments, and left his profession forever.

"He then entered the office of Jonas Storey at Newburgh, where he had for fellow-students John B. Booth, afterward Surrogate of Orange County, and District Judge of Iowa, and William G. Belknap afterward Major General in the United States Army. His career at the bar was a long and honorable one.

"I doubt whether any of the array of splendid jurists who have adorned the bar of Orange County, had a higher conception of a lawyer's duty, or left a more stainless record than Judge McKissock. I recall one story which I heard before I ever saw him. A young member of the bar was consulted about bringing suit on a matter in which the law might be in favor of the

plaintiff, but decency and morality was against him. The tempting fee offered, dazzled the young man's vision, but distrusting his own ability to carry the matter through, he laid it before Judge McKissock, who heard him through, and by a few questions put himself in full possession of the facts, and then in his emphatic manner pointed out to his young friend the infamy which would attend the attempt, and the certain ruin it would bring upon him. The young man told the story himself, and expressed his gratitude to the Judge for saving him from ruin, and attributed to his reproofs and advice at that time his own rise to distinction in his profession.

"While I was a clerk in Judge Monell's office in 'the fifties' Judge McKissock was a frequent visitor, and his conversation was always interesting and instructive and sometimes epigrammatic. Once, while a number of gentlemen were there, the recent decease of a man, supposed to be very wealthy and whose riches had been acquired by devious means, was spoken of, and one gentleman inquired of Judge McKissock, 'What did he leave?' 'Everything,' responded the Judge, 'he didn't take a thing with him.'

"On another occasion when a number of gentlemen were discussing the character of a certain new comer into the community, one of them related how this man, by his selfish conduct had ruined the life and caused the premature death of an accomplished young lady, and Judge McKissock exploded, 'Well, Sir, if the Devil don't get that man, Sir, I don't see any use in having a Devil at all, Sir.'

"The late H. H. Heustis consulted him about a case in which the pleadings were decidedly mixed, going through everything from complaint to surrebuter without reaching an issue. He submitted the papers to the Judge who examined them carefully and then to Heustis' anxious inquiry: 'What shall I put in next?', replied,

'Well, Sir, I don't know, what you will put in, Sir, unless you put in a blasphemer, Sir.'

"Judge McKissock in his address to the jury was full of animation and energy, and in his arguments would often turn his back upon the jury as though he was talking to the listeners in the court rooms, and his gestures were very constant and often vehement. I recall a story often told of one of his contests with his fellow-student, Judge Booth. This gentleman had many peculiarities, but was a hard student and careful in his preparation of his cases, and while he did not possess the genius or power of repartee of McKissock, they were not unevenly matched. On this occasion McKissock had the closing argument, and was bearing down heavily on his opponent, who sat a little in the rear of him shaking his head vigorously at the points made by plaintiff's counsel. As McKissock proceeded in his address and as usual turned around as though addressing the audience he caught sight of Judge Booth's head indicating vigorous dissent and burst out, 'Ah, Judge, you may shake your head, sir, and you may shake your head, sir, but there is nothing in it, sir.'

"In 1847 Bate was elected County Judge, the first County Judge of Orange County, under the Constitution of 1846, and McKissock was appointed with Judge Whittlesey to fill in the old Supreme Court the places of Judges Bronson and Jewett elected to the Court of Appeals. He served one year in that tribunal and closed up the business of the Old Supreme Court. His published opinions are found in V, Denio, and are clear and able expositions of the law. In 1848 he was elected to Congress, and served one term, giving warm support to the administrations of Taylor and Fillmore, but on the breaking up of the Whig party he afterward affiliated with the Democratic party, as did his predecessor in Congress, Hon. D. B. St. John.

"By the election of Bate to be County Judge, and the elevation of McKissock to the Supreme Court, their business was broken up, and when McKissock returned from Congress his clients had mostly formed other connections, and henceforth Judge McKissock was mostly employed by other lawyers to argue their cases in the higher courts, though he frequently tried cases at the Circuit, and was always a formidable and honorable antagonist, and was long held in affectionate remembrance by his associates at the bar.

"Judge McKissock's character was so upright, and his treatment of others, especially young men, so kindly that I never heard a word said in disparagement of him or adverse comment on him as a lawyer.

"Possibly this last statement is too broad. In the case of Monell Ex. of Downing vs. Collyer et al (for the death of Andrew J. Downing in the burning of the Henry Clay) in which I heard Tom George and Chauncey Belknap say Judge McKissock was prepared to make the effort of his life, he was pitted against Ambrose L. Jordan of Hudson, who had been Attorney General while Judge McKissock was on the bench. It was the first time they had met in opposition to each other and their clashes were so frequent as to bring down on them the reproof of Judge Brown, winding up with 'You are not trying this case as well as younger men would.' After the adjournment of the case over Sunday, Jordan offered such terms of settlement that McKissock lost not a minute in advising his client to accept them. He thus won out for his client but lost the eclat that would have attended the return of a verdict in his favor. But it was just like him.

"I can recall the appearance of Judge McKissock in the 'Fifties' very distinctly, though I do not recollect seeing him before I took up my residence in Newburgh. I am not good in

painting the portrait of an individual, but will do my best to comply with your request.

"Judge McKissock was about five feet nine inches in height, stout, and solidly built, but not portly, square-shouldered and with a large chest. His head was large and well shaped. His face, almost square, was always cleanly shaven. His eyes rather large and prominent and bright blue, sometimes dancing with mirth and at others blazing with indignation. His mouth was rather large, while his chin bore evidence to his firmness of character. His countenance, usually placid, would light up with a pleasant smile on greeting a friend, but was capable of assuming a stern expression when facing a reluctant or untruthful witness. His voice was distinct, and his manner, while devoid of any trace of affectation or ostentation, was alert, quick, nervous and animated, and when speaking to a miscellaneous audience or addressing a jury, profuse in gesticulation, and never failed to gain and hold the attention of his hearers.

"In the trial of a jury case his even temper and self-control enabled him to steer his case skillfully from start to finish, undisturbed by adverse rulings of the court, and unruffled by the efforts of opposing counsel. Controlling himself he enforced respect from his adversaries. Deferential to the court but firm and unyielding for what he considered the rights of his clients; courteous to his opponents, the apparent justice of his positions commanded the careful consideration of the bench, and the close attention of the jury. After the lapse of more than sixty years the figure of Judge McKissock stands out before me as one of the best specimens of the bar of New York in his day."

Judge Gedney told this anecdote of McKissock.

An action was brought against a doctor for malpractice. The plaintiff had sustained a compound fracture of the bones of the leg. The defendant was employed and set the leg but for some reason the broken ends slipped past each other and when the injured man got on his legs again he found that the injured one was much shorter than the other. He brought an action—McKissock for the plaintiff, Gedney for the defendant.

The defence was that the injured man had eaten heartily in violation of the doctor's orders and had in that way brought on a feverish condition which caused him to flounce about in the bed a good deal and this had loosened the splints and allowed the bones to slip.

Gedney had a natural taste for anatomy. His father was a physician as was also his elder brother. He studied his case carefully and when he came to the trial knew a whole lot about the bones and muscles and ligaments of the leg,—knew all their medical names and their connections. In summing up the case he used this knowledge and almost unconsciously applied the technical medical names and description, arguing that the doctor was not in fault but the patient was to blame himself. Judge McKissock opened his address by saying that the learning of his brother Gedney had astonished him; that these long Latin names would puzzle half the doctors in the land. But there was once a man, said he, who knew even more than my friend Gedney does. His name was Solomon. You will find him mentioned in the Bible. And he said: "When a man's belly is full his bones are easy." And there, said Gedney in telling about it, there was my two hours speech all knocked into a cocked hat in less than five minutes. The best

of the joke was never discovered by Gedney. McKissock seems to have humbugged the whole crowd, Judge, jury and counsel, for there *is no such expression nor any resembling it anywhere in the Bible.*

James S. Graham—the elder—studied with Judge McKissock but being fond of society and a great favorite he was somewhat irregular in his attendance at the office. On one occasion one of his young lady friends called there and asked if Mr. Graham was in. McKissock answered very suavely, “Not at present.” An hour or so later she returned and inquired, “Has Mr. Graham returned yet?” The Judge replied somewhat tartly, “No.”

Shortly afterward she came again with the same question and receiving the same answer she innocently queried, “Why, he’s studying law in your office, isn’t he?” The answer came in one word with strong emphasis, “*occasionally.*”

A young lawyer once hustled into McKissock’s office and in a hurried way asked him some question in regard to the law affecting trusts. The Judge’s response was: “My dear young man, don’t you know that a knowledge of the law of uses and trusts comes only through fasting and prayer.”

Judge Brown in his obituary notice mentions McKissock’s illegible handwriting. It was reputed to be exceedingly bad. It was told of him that he once wrote a letter and addressed it to a gentleman in Illinois. By a series of accidents—or providential interpositions—the letter finally reached its destination but the party who received it could not read a single word of it. He therefore cut off the signature and pasted it on the outside of an envelope. Then he cut off the caption and pasted it beneath the signature. Next he inclosed in this envelope what was left of the letter and mailed it. Somebody there deciphered the N. Y. and when it reached there

some of their interpreters read the Newburgh.

When it came here our postmaster recognized Judge McKissock's writing and the letter was delivered with his mail. When the Judge opened it he could not read a line of it himself and in his explosive way he said: "Abominable! Atrocious! The man who couldn't write better than that ought to be sent back to school." Then, to see who the culprit was, he looked for the signature. Finding it had been cut off he looked at the address on the envelope and recognizing there his own autograph he quietly remarked: "Not as illegible as it looked to be."

This anecdote came from James G. Graham (the elder) who studied—"occasionally"—in McKissock's office and who himself wrote a hand which taxed one's patience, and ingenuity to decipher.

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### HON. JOHN W. BROWN.

Born at Dundee, Scotland, October 11, 1796.

Died September 6, 1875.

(The earlier portion of this sketch was prepared by William Graham, L. L. D.)

I never was present in Court when John W. Brown was engaged as counsel but twice:—Once when Polly Bodine was tried for the murder of her sister-in-law, in April, 1846, which was the first time I was ever in a court of record. David Graham, Jr., the author of Graham's Practice, and one of the Code Commissioners, opened the case for the defendant, and I have always thought that it was that speech that made me a lawyer. David Graham, Jr., A. L. Jordan, and John W. Brown appeared for the defendant, a wonderfully strong array. L. C. Clark, District Attorney for Richmond County where the murder occurred, and James R. Whiting, District Attorney of New York, for the prosecution.



JOHN W. BROWN



The defendant had been convicted in New York, and the Supreme Court granted a new trial which was held in Newburgh before Judge Barculo, the first case he tried as Judge. The first witness for the defense was Judge Edmonds before whom the case was tried in New York. As I remember it Judge Brown examined this witness as to the testimony some of the witnesses for the State had given in the former trial. Some of the witnesses for the prosecution had disappeared and the defendant was acquitted.

On the other occasion I was in court when Hon. William C. Hasbrouck was trying a case which Judge Brown defended before Judge S. B. Strong. It seemed to me that the plaintiff made out a clear case, and that the trial Judge was of the same opinion, but the jury promptly returned a verdict of "no cause of action." I had often heard it said that John W. Brown was almost omnipotent with Orange County juries, and it seemed to me then, though only a youth, from the testimony and the charge of the Court, that the personality of his counsel was all the defence the defendant had.

While a law student I made it a point to attend as often as possible the Sessions of Court when held in Newburgh. I do not recall any that was held there by any other judge during that time. It was interesting to watch the jury while Judge Brown was charging them. He had been all his professional life a trial lawyer, and when charging the jury, he would take up the plaintiff's side, and presently seemed to forget that he was judge and not counsel, and would argue the case for the plaintiff, and suddenly he would become conscious of that fact, and would take up the defendant's case, and argue that just as ably, and all the time the jury were watching to see which way he leaned, and if they could determine that question, the side the jury thought he favored was sure of a verdict.

But the jury did not always guess right. My father used to tell of one occasion when he was one of the panel, and when the jury retired, he found that he stood alone. The case being an important one and his conviction being very strong, he stood out, and after a day and a half, the judge discharged the jury. As it was about noon court adjourned, and on coming out of the Court House Judge Brown took father's arm and walked down the street with him, and on the way asked how the jury stood. He was answered, "Eleven to one." "Why," said the judge, "that juror must be a very obstinate man. I thought I charged the jury so strongly that I expected a verdict for the plaintiff in a few minutes. Who was the juror who stood out?" Father admitted that he was the guilty party. "You," said Judge Brown, "why I always considered you a sensible man." "But, Judge, I was the only one that stood for the plaintiff."

Judge Brown was not only an excellent judge in his ruling and decisions, but transacted business promptly, and never permitted trials to drag along. There was one member of the bar, "of great bore but small calibre," who would exhaust the patience of Job in cross-examination of a witness. This was to Judge Brown almost unendurable. Once at Goshen this counsel had examined a witness at great length and to little purpose, with a long pause between each question, and the judge would ask, "Are you through with this witness, Mr. \_\_\_\_\_?" "No, your Honor," would be the reply, and then would come a question that had been asked a half dozen times before, until the judge broke out, "You are through with this witness, Mr. \_\_\_\_\_. You are through with him, sir. Witness leave the stand."

This story was told of the first time he held Court in Westchester County. The previous judges had been very easy, and the bar had

fallen into a very slip-shod way of doing business. Judge Brown on taking his seat empanelled and charged the Grand Jury, and then called the Criminal Docket and not a case was ready. He then called the Civil Docket with the same result. The judge leaned back in his chair, and the talk of the proverbial "Dutch Uncle" wasn't a circumstance to the blistering reproof that the bar got from the bench. He wound up, after stating that the expense to the county of holding the court was about three hundred dollars a day, by notifying the District Attorney that when he held court there again, he would, on the opening of court, call the Criminal Docket, and if the State was not prepared in any case, he would discharge the defendant on his own recognisance, and that every case on the Civil Docket would be tried or dismissed when reached. It was said that no one could hire a horse or man at the county seat that night for love or money. They were all scouring the county in search of witnesses to have them on hand at the opening of court next morning. That talk surely "speeded up" the dispatch of litigated business in Westchester County.

The writer was admitted to the bar at the General Term at Brooklyn in January, 1856. He went to the city by the same train which carried Judge Brown. A serious accident at Spuyten Duyvel Bridge, to the train preceding ours, prevented our getting to Brooklyn until after four o'clock p. m. Then we were informed that Judges Strong and Rockwell who were the other judges, had adjourned the term until the next Monday. On the adjourned day Judges Brown and Rockwell appeared, but Judge Strong was snowed up in the east part of Long Island. They sent on to New York and borrowed Judge E. P. Cowles, and appointed a committee to examine the applicants for admission to the bar, and adjourned sine die. Some time after, I took

my certificate to Judge Brown's office for his signature, and he complained bitterly that he had nothing to do, and said it was the first time since he was admitted to the bar that he was absolutely without business. But it was ten years after before he retired from the bench he so ably adorned.

Few persons, who knew Judge Brown only as a hard-headed, hard-fighting lawyer of rigid Presbyterian principles, suspected the tenderness of feeling that hid behind his unpromising exterior. In the summer of 1855 a man was tried in Newburgh for the murder of his wife, and, in spite of a vigorous defence by Judge Mc-Kissock, was found guilty in the first degree, and that mainly on the testimony of his own seven-year-old son. When the judge pronounced sentence of death upon him, he was observed to be greatly affected, and at the close, broke down in a paroxysm of tears. It was the first time I ever heard a death sentence pronounced, (and I have heard but one since) and a few days after, I was in conversation with one of the judges of another district, and related the circumstances and added that I was told that it was the first capital case that Judge Brown had tried. That judge told me that he had tried eleven murder cases in which verdicts of guilty had been returned and that seven of the defendants had been executed, and he had been on the bench only two years longer than Judge Brown. At Judge Brown's intercession the penalty was commuted to imprisonment for life.

I understand your request in your last letter for something further about Judge John W. Brown to refer to his personal appearance. He was tall with no superfluous flesh, but well proportioned, active in his movements, dignified in his manner but without any trace of stiffness, or pomposity, accurate and incisive in speech and keen in repartee, easy to approach and pleasant

in conversation, yet he could hardly be termed affable. I can not say much of his attitude at the bar as I saw him in court only twice before he became Judge, but I knew of his power as leader of the bar. As a judge he was always dignified, prompt and accurate in his rulings, and clear and impartial in his charges to the jury. He was not only a hard worker but one who loved to work, and the members of his profession had unbounded confidence, not only in his ability, but also in his integrity, and that confidence was never abused.

Judge Brown was not only a hard worker but he was also diligent in collecting the rewards of his labors, and was equally diligent and prudent in investing them. I remember hearing one active member of the Newburgh bar remark that only death, or a severe fit of sickness, would keep Judge Brown away from his office on April 1st, the day the interest on his investments were made payable. In him was the proverb of Solomon verified: "Seest thou a man diligent in his business! He shall stand before kings. He shall not stand before mean men."

I think the oil painting of him which hangs in the Court of Appeals is the best likeness of him that I have ever seen, but the cut which appears on page 158 of Ruttenber's "Newburgh" is very good.

#### ADDENDA BY W. C. A.

In the foregoing sketch Mr. Graham has referred to the Polly Bodine case. It was one of Judge Brown's greatest forensic triumphs. His summing up was said to be masterly. In closing it he is reported to have said to the jurors something like this:

"And now, gentlemen, if you shall find a verdict against the accused, then, in days to come, when I meet you, and demand to know, *as I shall*, how you overcame the presumption

of innocence to which the accused is entitled I shall expect you, each one of you, to be prepared to give me full and explicit reasons for your verdict—for a woman's life is at stake."

John W. Brown was a man of unusual force of intellect and of character. His ability and integrity were not only conspicuous but were felt, almost instinctively, by every one who had any business transactions with him. He made a very deep impression upon the men of his own generation and that impression has not yet faded out entirely, which is saying much for a lawyer's influence, for usually when a member of that profession "rests from his labors" his good works are speedily forgotten.

He was a ready man, full of resources and prompt and unhesitating in using them. One instance occurs to me. In the days when "Justices of the Sessions" sat with the Supreme Court Justice in every criminal case the two "Side Judges" in Dutchess County conspired to take Judge Brown down a peg or two; so when the District Attorney was urging the admissibility of certain evidence and the prisoner's counsel was objecting vigorously one of the Session Justices leaned over the bench and said to the prisoner's lawyer: "Mr. X\_\_\_\_\_, we think that evidence is entirely proper and shall admit it." Judge Brown looked around at him and merely said, "W-h-a-t!" The Side Judge replied, "You needn't be uppish about it, Judge Brown. We are the majority of this court and have decided to admit the evidence." His co-conspirator nodded assent. Judge Brown's high white silk hat stood on the bench near him (he always wore a white one in summer) and reaching for it he put it on and started for the door, remarking in his severest manner—(which was *very* severe)—"Perhaps you think you can run this Court without my help." Instantly the question was withdrawn vociferously, as likewise was the

objection and the judge returned to his seat remarking with considerable asperity, "Very well then; I think that the proceedings here will be conducted without further foolish interruptions."

I might say that an incident somewhat similar to the foregoing occurred in the Orange County Court when Duryea was County Judge. The evidence offered was expected to be of a particularly indelicate character. There were many itching ears in the audience—perhaps some on the bench—waiting to hear that very testimony. Duryea ruled it out as irrelevant. The Session Justices overruled him and the evidence was introduced.

The obituary notice which Judge Brown wrote regarding Judge McKissock, which is printed in another part of this book, gives a clearer view of Brown than a dozen pages of description could.

His literary style, his manner of expressing himself, whether in writing or orally, his ideals, his point of view regarding some of the most important questions of life, and the unflinching truthfulness which led him to speak of the faults of his dead friend all shine out clearly in that article. That he failed to observe the rule, "De mortuis nil nisi bonum," was equally characteristic of him. He seems never to have subscribed to the proposition that "the truth should not be spoken at all times." This sort, or quality of outspokenness may or may not be due to a lack of tact but one who displays it is sure to be thought lacking in that rarest of the Christian graces.

My residence was very near Judge Brown's during the last three or four years of his life and I came to know him well and can testify that he was a kind and helpful neighbor and a wise adviser even in matters outside of his professional lines. Mr. Graham has said, in the article which accompanies this that Judge Brown loved to

work. In that he is mistaken. The judge once said to me that he disliked to work. He stated it in this way: "It was always hard for me to work. I had to drive myself to it. Now there is Brewster—he doesn't deserve any credit for working; he would rather work than be idle." I told Brewster, years afterwards, of this conversation and his reply was, "How little we really know about those who stand nearest to us. I always disliked to work—worse than Brown ever did—and I do yet. During the many years I was a clerk in his office if he had known me as well as he thought he did he never would have said that to you, or to anybody."

As Judge Brown says of McKissock, so I will say of him, "faults he doubtless had"—but as to these I cannot speak from personal knowledge. The one quality in him which I observed which most resembled a fault was that he seemed to me to be entirely destitute of the sense of humor. He was intensely serious and in earnest all the time—a stern, self-reliant, isolated man.

In his old age, after he had retired from the bench, an effort was made to bond the City of Newburgh in aid of a railroad which was intended—(or proposed)—to be built from Newburgh back into the western part of the county. A public meeting was held at People's Hall to discuss the proposition. The hall seated a thousand to twelve hundred people and it was filled. The audience had been packed with claquers in favor of bonding the city. It was understood that Judge Brown would speak in opposition to the scheme. When he came forward from his seat at the back of the stage and essayed to speak bedlam broke loose. Hoots, catcalls, boos and all manner of hideous noises filled the hall. Judge Brown said a few words which nobody heard; it is doubtful if he heard them himself. Then he walked back towards the seat he had just vacated and the crowd quieted down. They

thought they had cowed the old gentleman and that he was retreating—but they didn't know John W. Brown. He deliberately dragged his chair forward to the front of the stage and seated himself on it with the remark, "Well, I can sit as long as you can holler." The audience concluded to hear his speech and he proceeded to give the bonding scheme and the men who were promoting it a dressing out that no one who heard it has ever forgotten.

He began by saying something like this: "I am an old man, about to die, and I do not reside in this city, but I felt it my duty to come here tonight to try to save my neighbors and friends and former clients residing here from the burden which would be put upon them and their children and their children's children by the adoption of this wicked scheme." And he went on to discuss the project and the individuals who were back of it, without fear or favor. It would not be possible to say that this speech defeated the scheme but it had great weight with the people and the bonding project was defeated; the city was not bonded.

Judge Brown seems to have been about twenty-five years old when, in 1822, he was admitted to the practice of the law. The period of study then required was extremely long. Prior to his admission he had studied in the office of Fisk & Case (Jonathan Fisk and Walter Case) and after Mr. Fisk removed to New York City about 1815 he continued in the office of Mr. Case until he was admitted to the bar. His rise in his chosen profession was rapid. In the trial of cases he was a forceful and convincing advocate; in his office he was a learned, clear and far-sighted counsellor. No client ever suffered by reason of committing his interests to the keeping of John W. Brown no matter how able or famous the opposing attorney might be. In his early manhood he took an interest in military affairs

and followed it up with his usual thoroughness so that he finally became—in 1824—the Colonel of the militia of this district. In 1832 and again in 1834 he was elected to represent this district in the United States Congress. In 1849 he was elected a Justice of the Supreme Court and that office he continued to hold for sixteen years or two terms—the term then running for eight years.

At the expiration of his second term—January 1, 1866—he retired to private life and refused to accept professional employment though he continued to spend a few hours in his office each day until nearly the time of his death. He left two sons and several daughters. One of the sons, Hon. Charles F. Brown, has surpassed his father's fame as a jurist, and has rivaled it as a lawyer.

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### ISAAC R. VAN DUZER.

Died November 27, 1841.

It is much to be regretted that so few details in regard to Mr. Van Duzer's life and work have come down to our time. By universal consent he is ranked among the most brilliant men who ever practiced law in this county.

His death at the comparatively early age of thirty-nine years cut off, in mid-career, a life of very great promise. He was a member of Assembly in 1832 and again in 1833 and District Attorney of this county from 1829 to 1835.

He was once a candidate for Congress but was defeated. Such is the brief record of his public services. As a member of the Assembly, he produced such a favorable and lasting impression upon his fellows that one of them spoke of him, thirty years later, as a man of surpassing ability and brilliance. It is told of him that he frequent-



ISAAC R. VAN DUZER



ly dictated complicated legal documents to two amanuenses at the same time, and that he often drew indictments, (which then had to be drawn with great care), in the public room of the hotel in the midst of the greatest confusion and distracting incidents. It is also known that in his private practice he was pitted against the ablest men at our bar.

Mr. Van Duzer married a sister of David F. Gedney which resulted in a certain degree of intimacy between the two families and Gedney once spoke of his pleasant memories of a Christmas dinner he had taken years before at the Van Duzer homestead when all the Van Duzers were present. It was a large family I think, and Judge Gedney said he thought that taken all in all they were the finest looking set of people he had ever sat at table with. He spoke particularly of the attractiveness of their hair which was, as he described it, not curly but wavy and very abundant.

The accompanying portrait of Mr. Van Duzer fully justifies Judge Gedney's opinion as far as this member of the family is concerned.

The Van Duzer homestead was in the Town of Cornwall and there the subject of this sketch was born on May 8th, 1802. He was licensed in the year 1823 and forthwith opened an office in the Village of Canterbury.

With his brilliant gifts he naturally found his way to a larger place and had his health not failed he would have been constrained ultimately to seek the wider field afforded by the metropolis.

In Clark and Ruttenber's History of the County I find a sketch of Mr. Van Duzer which reads as though it had been written by Judge Gedney—his brother-in-law. I quote from it that which follows: "The general impression of those now living who were brought into personal contact with him is that he was one of the most impressive and magnetic men of his day; that he

was an orator of rare powers of eloquence and logic and gifted with a magnificent voice."

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### DAVID F. GEDNEY.

By Tristram Coffin of the Dutchess County Bar.

I studied law in Goshen in the years 1862-3 in the office of the late Joseph W. Gott, an excellent lawyer of that period. A few days after my arrival in the village, a trial term of the Supreme Court was held at the County Court House there, Justice James Emott of Poughkeepsie presiding. It was my first experience in attending court, and I was much interested in all that occurred. Every bench in the spacious room was filled with people. The chairs of the bar enclosure were also soon taken by lawyers from all sections of Orange County, quite a number of whom bore the outward marks of superior intelligence and intellectual capacity. The one among them who particularly attracted my attention was not in my estimation in the last named select class. Neither did I regard him to my satisfaction as one of the other attorneys. Indeed I found myself doubting whether he had the right to enter that exclusive place. He was evidently about forty years of age, of medium height and weight, simply but faultlessly dressed, and acted the part of a quiet, dignified gentleman. The apparent enigma was contained in his remarkable head. His brow retreated so abruptly that there seemed to be no room for the grey matter of a fine brain or for scarcely any frontal brain above the location of the perceptive faculties. His back head was large and full. My knowledge of phrenology certainly must have been very slight or the science itself at fault in this instance for I remember distinctly that mentally I relegated him to a place far down the scale, as one to whom



DAVID F. GEDNEY



Nature had failed to allot even the average amount of understanding.

My attention was soon diverted to the court business, the making of motions, the call of the calendar, etc. Later in the day when an important case was brought to trial, the man in question was seated near some lawyers at one of the tables in front of the jury. My only thought at the time was that he must be one of the parties interested in the suit, and this view was seemingly confirmed by several apparent consultations between him and the active attorney who opened the case for the plaintiff and examined his witnesses. In the summing up a white-haired lawyer who proved to be ex-Judge McKissock, of Newburgh, made a very able plea for the defendant's side, concluding with a caution to the members of the jury not to allow their judgment to be unduly swayed by the eloquence of his "friend on the other side."

Imagine my surprise when the gentleman with the strangely shaped head quietly rose and began to address the jury as the senior counsel for the plaintiff! At first his utterance was very slow and rather loud, and there appeared to be evidence of some embarrassment on his part. This, however, disappeared as his mind gradually cast aside the fetters that held it in temporary abeyance; his deep rich voice assumed a natural tone; he soon appeared to forget himself and his surroundings, and in the absolute silence of the multitude, with every eye upon him and every ear at attention, he proceeded to deliver one of the finest forensic addresses that it has ever been my privilege and delight to hear. Presently I observed what had escaped my attention before, that his face was one of much strength, every feature plainly indicating it. His small eyes which had seemed so ordinary, now, with pupils dilated, shone brightly from their deep settings and his moist face flushed as his mind, working

at its maximum speed, taxed his well guarded voice to its full capacity to keep pace with it. He did not speak rapidly but there was no hesitation and every word was well chosen and weighty with meaning. The analysis of the foundation facts and points of law, the strength and weakness of the testimony of the various witnesses pro and con, vivid illustrations and apt and thrilling quotations from renowned authors, all came steadily forth in a well articulated and thoroughly supported volume that was irresistible in its convincing power. It was now plainly apparent why the veteran and talented McKissock spoke his warning words to the jury, for the cause of his client surely needed all the help it could obtain from any source. Nearing the end, his voice grew low and more measured, his manner more quiet, and in words not too many or too few, he closed and deliberately resumed his seat. Turning to a gentleman sitting beside me I asked if he knew the name of the speaker. His whispered reply was—"Judge Gedney." I do not remember which party was successful, but I have little doubt that the verdict was for the plaintiff, else I should surely recall what would have been in my opinion at that time, a marked and not to be forgotten instance of the miscarriage of justice!

During my stay in Goshen I heard the Judge speak a number of times, and always with admiration, but throughout all the intervening years that remarkable address has come first to my memory when I have thought of him. I have no doubt that it was one of his finest efforts. It is difficult to imagine how it could have been improved either in substance or in delivery. Afterwards, I heard all the most prominent speakers among the lawyers of the Orange County bar of that day (and there were some who possessed fine ability in that respect), but in my estimation not one of them was his equal,

and I doubt whether either one of the famous quartette—Duer, Hoffman, Van Duzer and Wilkin—of the preceding generation, surpassed him.

In time I became somewhat acquainted with the judge and still recall the purport of nearly all the conversations I held with him. This fact is evidence as to the impression he made upon me. A few among these memories, which recur to me as I write, may perhaps not be considered out of place in this article.

One of his statements was that he never began to address a jury or other audience without feeling quite nervous and incapable of doing justice to his subject, and that he only overcame it by speaking at the outset in a strong voice and very deliberately until he gained the proper poise. He said that Secretary of State William H. Seward, who was a distinguished speaker, once told him that his experience was very similar.

For a few weeks I acted as the editor of the Goshen Democrat, a Republican paper at the request of Mr. Charles Meade, then its owner and editor, during his absence on his summer vacation. It was just before the battle of Gettysburg, and the loyal people of the entire North were in a state of great excitement and anxiety. Strange as it may now appear, it is a fact that the hills and valleys of Orange County were then infested by many human copperheads, and my longest editorial was devoted to them as connected with the dire emergency then at hand—the great peril that over-shadowed the Union cause by reason of Lee's invasion. I had written the article hastily but warmly, and used some forceful quotations. Soon after the publication of the paper in which the article appeared, I was much gratified by receiving a call from the judge in the course of which he remarked that it was one of his many regrets that he could not recall more readily and fully the fine passages he came across in his read-

ing, when he needed them in speaking. He seemed surprised when I smilingly assured him that I thought he was greatly mistaken; that it appeared to me that his memory served him remarkably well in that respect. It was but one of many evidences that existed of the innate modesty of the man.

A student in one of the offices, upon finding in the attic of the building a lot of French novels of pronounced yellow character, fearing that he might be tempted to read them, and without ascertaining to whom they belonged, burned them to ashes in the office stove. I happened to be present among a small group of men, including the judge, when the matter was mentioned, and well remember how all possible criticism was forestalled by his emphatic approval of the really questionable act.

Judge Gedney was a constant and careful reader of the best literature, classical and otherwise. That propensity, viewed in connection with his love for his home life (which was congenial and happy) accentuated by a certain degree of apparent mental and physical indolence, kept him from devoting sufficient time and effort to his profession to enable him to build up a large practice. It was very difficult for him to become a steady worker, and he shrank from engaging in any of the ordinary ways of influencing business to come to his office. It had to reach him unsought or go elsewhere. It may also be said that his courtly and refined manners and address were entirely devoid of the "Hail fellow well met" style, the exercise of which is supposed to render its possessor popular with the average class of people.

Had he chosen to have formed a partnership with an affable, competent and industrious office lawyer, it would doubtless have led to his far more frequent appearance as an advocate in court. His rare ability would then have been

developed more fully and would have been more generally recognized and appreciated. He was well qualified by nature and cultivation to have attained marked success, not only as a court lawyer, but as an author, a clergyman, or public lecturer.

Such are my principal memories of David F. Gedney. I knew him for a brief period more than fifty years ago, when he was in the prime of his life. Other and more familiar pens than mine must be enlisted if full justice is done him and his career. To me he will always stand out as the most gifted man at that distant day among the lawyers of the historic village of Goshen and of the grand old County of Orange. Those who knew him best and properly valued his rare qualities of mind and inspired strength and facility of expression, saw him with keen regret, go through life on a range far below that which he was capable of attaining. There was a cluster of pure mental diamonds in his brain, very few of which were ever seen to sparkle, and all were finally buried with him under the sod without having been accorded the full opportunity rightfully due them to display their brilliant qualities.

*New York, May, 1917.*

ADDENDA BY W. C. A.

My own first impressions of Judge Gedney were similar to those of Mr. Coffin. I had heard most favorable reports of him but had never seen him until I went to his office one summer morning in the year 1864 to ask if he would receive me as a student. I recall a feeling of surprise that one so celebrated as an advocate could be so unprepossessing in appearance. But his courtly manners and pleasant voice coupled with the kindness with which he met me soon won my admiration and all thought as to his appearance was banished.

I remained in his office as a student for nearly a year and a half and a more considerate and agreeable preceptor could not have been found. He treated me with as much courtesy as though I had been his equal in years and in professional standing and it is not to be wondered at that I came to regard him with sincere affection.

He was in some respects unlike any other member of the profession in this county at that time. He seemed to be made of finer material. Delicate and sensitive to a fault he could drive himself to face the rough and tumble of litigated practice without a sign of reluctance. But he infinitely preferred the paths of peace.

He loved music and pictures and flowers "and everything that pretty is" and especially books.

His susceptibility to music was remarkable. I recall a chance meeting of five or six young people at his house one summer evening. One of the number, (a Miss Bradish), had a lovely voice and in the gloaming she played and sang for half an hour or more, rendering among other songs a number of plaintive Scotch ballads. The sound of that music is in my ears yet. It was exquisite. The room was in almost total darkness. The next morning the judge said to me that it was fortunate we were sitting in a darkened room the preceding evening for the tears he shed over those Scotch ballads would have disgraced him if they had been seen. Frequently he would seat himself at the piano and "improvise" delightfully.

As a reader he was omnivorous. He could appreciate and enjoy anything from Bentham, on Jurisprudence, to "The Arabian Nights." He read French as easily as though it had been his mother tongue, being master even of the black-letter French. He had some familiarity with the Italian language also. But in mathematics—especially in mixed mathematics—he was sadly deficient. He said to me once that he lacked the

arithmetical instinct: that he could not add up a column of figures with any confidence that he would reach a correct result. But he added, "I can beat Charley Winfield. He is worse than I am."

Judge Barnard once said to me "that Gedney is a most remarkable man. When he is counsel in a cause he will sit there with his eyes shut until you might think he was dead except that occasionally his foot will wiggle a little and once in a great while he will whisper a word or two to the lawyer who is trying the case. But when it comes time for him to sum up he will address the jury for an hour or two or three as the case may demand and he won't miss a point as big as a humming-bird's eye."

In speaking to a jury—or to a general audience—Judge Gedney never shouted and never made violent gestures. When he wanted to be unusually impressive he would drop his voice to a lower tone and speak very deliberately. The effect was magical. The entire audience would fairly hold their breath to listen. One of the sources of his popularity as a speaker was his unusual power of arrangement. He would state the facts or points of a very complicated situation in such a simple and clean-cut way—so free from involutions and complications—that every listener could follow him without any effort. It was a pleasure—a delight even—to listen to him. I think I never knew him to have to say "I omitted to mention this in its proper place." When he had finished the discussion of one branch of his case he was through with it and it was presented in such a way that it needed no further words from him to convey fully and precisely the view he wished his hearers to take. In other words his arguments were like his sentences simply perfect in their arrangement. All this was accomplished without the slightest appearance of effort or preparation on his part.

"Charley" Winfield once said to me—after he had removed from the county and was practicing in New York City—that he regarded "Dave" Gedney as the most remarkable man in some respects that he had ever known. Said Winfield, "I always liked to have a little time for preparing to sum up. I usually tried to get the noon recess for that purpose or even an adjournment over night. But it never seemed to make any difference with Gedney. I have sent men to talk with him during a recess and to keep him so occupied that he would not be able to make any preparation for his speech—but it made no difference. He spoke just as well, just as smoothly and with as perfect an arrangement of his arguments as though he had had any amount of time for preparation."

One particular in which Judge Gedney excelled was in his power to say caustic things in a quiet way and in very few words. For example: An attorney whom he did not like or trust was summing up a case for the defendant. Gedney was to follow him for the plaintiff. The defendant's attorney in closing his argument said a whole lot of things about the eloquence of the gentleman who was to follow him—that the jury must be on their guard, etc., etc. Gedney quietly remarked as he opened his address, "I feel that I have been besmeared and besmirched by these hypocritical compliments."

One summer afternoon half a dozen lawyers,—Gedney among them—had gathered, as they frequently did, in front of Champion's office. Easy chairs had been brought out and everything was going as "merry as a marriage bell." The subject under discussion was the "Cheechunk Ditch" case—then a matter of great importance. Presently William F. Sharpe joined the party. At that time he was very diligently courting the lovely woman who soon after became his—second—wife. As she was many years his junior he

was extremely sensitive just then about his age. Something led him to say petulantly, "Well probably Dave Gedney can tell us all about this; he knows all about everything." Gedney quietly remarked, "It would be far more interesting to hear Mr. Sharpe tell what LaFayette said to him on his second visit to this country." Sharpe was "up in the air" at once, and lost his temper completely. He had no further interest in the "Cheechunk Ditch" and soon started for home.

In a case—or batch of cases—where Mr. Gott represented the plaintiffs and Judge Gedney the defendant there had been some talk of a compromise. Finally Mr. Gott named a sum—a big one—for which his clients would settle. Gedney replied with the suavity of a Chesterfield, "Mr. Gott, my client would prefer that his estate should not be administered on before he is dead."

In a very hotly contested murder case Gedney was associated with the District Attorney and was called upon of course to make the closing appeal to the jury. One of the witnesses for the accused was a man named Price and the testimony he gave was important. Gedney thought it necessary to break down this testimony if possible and he spoke with some acrimony of the ease with which such evidence could be procured "if the *Price* was forthcoming" and if one could "find the *Price*." The next morning he met Price on the street and greeted him with a polite "good morning" but was rebuffed with a gruff "go to hell." Sensitive as he was this did not disturb Gedney in the least. He felt that he had merely done his duty and enjoyed a hearty but quiet laugh over Price's courtesy. I have reason to think that Price's testimony in the case was not true but from my knowledge of the man I believe he gave it honestly. This murder case will be referred to again in a later portion of this volume.

Judge Gedney was not a diligent student of

the law. I have often wondered how he acquired as much knowledge of the law applicable to the cases he tried as he evinced. He was no "case lawyer." His library was sadly deficient, especially in the way of digests and elementary treatises. He had a good knowledge of the underlying principles of jurisprudence and he had the "legal instinct" and these sufficed for that part of a lawyer's work which he was chiefly called on to transact, viz., the presentation of causes to juries. He was also in the habit of talking legal questions over with Mr. Joseph W. Gott and I know that from these conversations he often obtained valuable assistance in arriving at sound conclusions. One other trait should be mentioned. Judge Gedney had a keen and delightful sense of humor. He seldom perpetrated a joke but he could appreciate and enjoy one thoroughly.

I think I have given enough details about Judge Gedney to show—dimly I fear—what manner of man he was. He was not peculiar—but he was exceptional. If he could have been spurred to do his best and his utmost he would have risen to marked eminence, or else, by reason of his somewhat delicate constitution, would have worn out at middle life. As it was his even manner of life and somewhat indolent ways preserved him to nearly three score years and eight. He died on the 21st day of June, 1888. As he himself once stated it to me he "took an early start" having been born on Monday, January 1, 1821, at one o'clock in the morning. He held but two public offices. During the years 1857-'8 and '9 he was District Attorney of Orange County and in 1864 to 1868 he was the County Judge of that county.

In the trial of a case Judge Gedney was courteous and considerate invariably, more especially towards young men. He did not often examine the witnesses but when he did you

might expect an unusually smooth, polished and thorough piece of work.

Even in cross-examination he treated the witness with the utmost courtesy—but he was as merciless as fate towards a witness who prevaricated. He would drive such an one to the wall unflinchingly but all the while with unfailing politeness and suavity. From beginning to end it was a treat to watch Judge Gedney try a case and sum it up.

He married Henrietta Duer. Their descendants now living are a daughter (not married) and one or two granddaughters. On the male side his family is extinct and his family name will die out,—as is the case with nearly all the men whose careers are sketched in this volume.

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### CHARLES H. WINFIELD.

"Hon. Charles H. Winfield, eminent lawyer, great orator, renowned public prosecutor, patriotic legislator, magnetic man—son of Dr. Charles Winfield, was born near Pine Bush, April 22, 1822, and died at Walden, June 10, 1888. He graduated at Montgomery Academy, April, 1842, and prosecuted his law studies in the office of Hon. Charles Borland at Montgomery. He was admitted to the bar in 1846, and practiced law for a brief period in Chester, Orange County, N. Y.

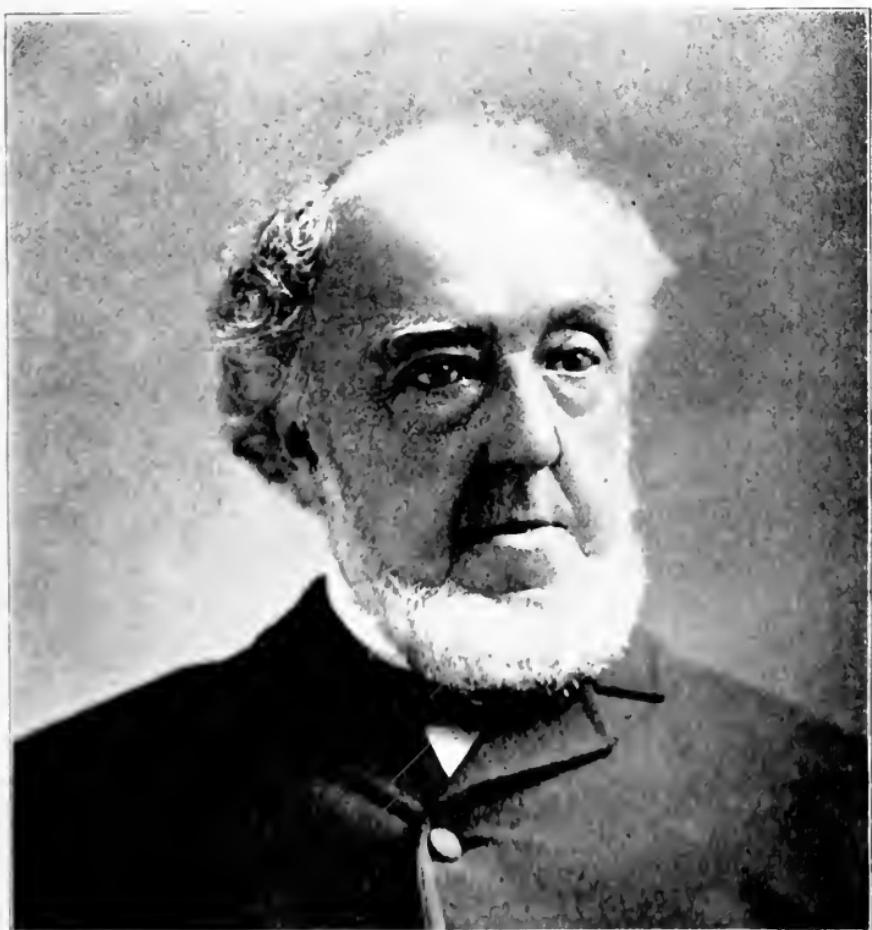
"In 1847 he formed a law partnership with William F. Sharp, at Goshen, which continued for twenty-five years. On April 5, 1868, he united in marriage with Miss Nancy Jane Crawford of Montgomery, who survives him. In 1850 he was elected District Attorney of Orange County, which office he filled for six years with great reputation. In 1862 he was elected to Congress, and was re-elected in 1864.

"In 1872 he formed a law partnership with Anthon and Leeds in New York City, which continued until 1884, when ill health compelled him to retire. His fame as an orator is secure. Space fails to record any of his very many oratorical triumphs. He was religious, reverential, benevolent, social, companionable—there was never discovered in him any trace of exclusiveness, arrogance or affectation. His brain power was such that he was capable of filling with credit any office in the gift of the people. On Sunday, June 10, 1888, "Children's Day," as he was addressing an audience at the American Reformed Church in Walden, an attack of heart disease suddenly ended his mortal life forever."

The foregoing brief but comprehensive account of Mr. Winfield's life and public services is copied from one of the numbers of "The Wallkill Valley Souvenir."

It is passing strange that one who filled so large a place in the minds of the people of Orange County during a considerable portion of his life time has left so little in the way of tradition or anecdote for us to recall. The fact is he was very like the general run of men, only bigger. He was a large man physically and of decidedly more than average size mentally. The impression he produced upon his contemporaries was largely due—principally due I think—to his impressiveness as a speaker. He was a ready, a fluent and a forcible talker and at times vehement and declamatory. He appealed more frequently and more successfully to the emotions and sympathies of his hearers than has any other lawyer at our bar in my day. He would at times move his audience to tears and would shed tears himself. He had a way when he was speaking of running his hand through his curly hair—it was black in those days—and mopping up the perspiration on his brow with his red silk handkerchief.

He and Gedney were about the same age and



CHARLES H. WINFIELD



though rivals in a way for honors as orators they were the best of friends always. But no two men could differ more in their general make-up than they did. Winfield was bluff, hearty, outspoken, democratic. Gedney was a patrician; reserved, undemonstrative and aristocratic.

Winfield would throw himself and his likes and dislikes into his case. I once saw him get an acquittal of a young fellow who was on trial for some minor crime and the ground on which he asked (and got) the verdict was that this young man's parents had befriended him when he was a struggling young lawyer down at Chester. This plea and a few tears did the job. Gedney on the other hand felt that the ethics of the profession did not permit him to go outside of the evidence in the case in order to influence the jury. He intentionally refrained from saying how that evidence had impressed him—never saying, "I am convinced"—"I am sure"—or any such expressions of his individual conclusions or feelings.

Mr. Winfield was a Member of Congress during the Civil War and being a "War Democrat" he was in favor with the administration. On one occasion he called at the White House in company with a friend and after their business with the President had been transacted, he invited them to stay and have ten minutes' talk with him. Something that was said led Winfield to say, "that reminds me of a story, Mr. President, that you are said to have told to Mr. So and So from North Carolina,"—and he told the story. Lincoln had a good laugh over it and then said, "I never told that story, Mr. Winfield. In fact I never heard it before. The truth is I very seldom tell a funny story,—but I know a few good ones." And, as Winfield told the anecdote, he added the President's eyes twinkled when he spoke of knowing some "good ones."

Mr. Lincoln made a deep impression on Mr.

Winfield. The latter was heard to say, several times, that he regarded Lincoln as the ablest man and one of the best he had ever met, and he added that the President was particularly strong in one point where he had not had credit for it—namely he was the shrewdest politician in the land.

Mr. Winfield's life was full of superficial and temporary triumphs and of profound and lasting disappointments. He was a man of warm affections and his heart was wrung by the death of his children—(six I have been informed)—who died in early childhood. His desire to be elevated to the Supreme Court Bench was not gratified and this was the occasion of profound disappointment to him. His last years were spent in retirement from active life, among friends and relatives in the neighborhood of his boyhood home. There his life was cheered and comforted by the society and ministrations of his devoted wife and his affectionate relatives.

During Mr. Winfield's term of office as District Attorney of this county—which office he held from 1850 to 1856—an encounter occurred in New York City between two noted prize-fighters, Bill Poole and — Baker, which resulted in Baker's shooting Poole. The injured man lived for a number of days though it was said the bullet penetrated his heart. Meantime Baker had fled to—or for—Europe, but was overtaken by a faster ship at the Madeiras and brought back. The case was one which aroused intense interest among all the sporting men—and all the small boys—in this part of the country. It was deemed impossible to get a fair trial in New York City so the case was sent to Orange County and Winfield won wide renown for the skill and ability he displayed in that trial. Even yet you will occasionally hear old men speak of that case and of the part Winfield took in trying it. He was pitted against one of the ablest men at the New York Bar in that day, James T. Brady, who

defended Baker. As was usually the case where Brady defended, his client was not convicted but the People's case was well presented. Brady was a wizard before a jury.

The last "messenger" came to Mr. Winfield with startling suddenness. A Sunday School convention was in session at one of the churches in Walden and Mr. Winfield was to make an address. With his usual attention to the details of such occasions he had chosen to occupy one of the pews at the side of the pulpit partly facing the congregation. When the time came for him to deliver his speech he stepped out into the aisle in front of that pew and made an address which delighted all who heard it. As he was closing it he spoke of the hope which every worker in the Sunday School might justly entertain that great good would flow from his work though such results might never be seen by him who did the work. He closed with the expression: "Would to God that my own life had been more given to such work." So saying, he fell in the aisle and "in a moment, in the twinkling of an eye" was dead.

"Sic transit gloria mundi."

In the trial of a case Mr. Winfield was somewhat aggressive and at times impatient and overbearing even with his own witnesses. For instance, once when his own client had given testimony somewhat at variance with what Winfield had expected and the latter was trying to get him to modify it the witness declined to do so and said in a conceited way, "I know what I'm about, sir." Winfield came back at him fiercely with the remark, "Nobody would suppose it from the way you act." In one of his early "horse" cases an odd incident is said to have occurred. A witness swore that the horse in question was about sixteen feet high. "You mean sixteen hands," said Winfield. "That's what I said," replied the witness. This led to a hot controversy

between the two until the justice was appealed to. He and several bystanders agreed with Winfield. By this time the witness was fighting mad and declared, "I mean to stand by my testimony. I shan't admit that I swore to a lie. What I said was true and you may call it hands or feet or whatever else you damned choose." So the horse stood on the justice's minutes as sixteen feet tall.

It is unfortunate that "horse" cases have so nearly died out in this day. They afforded lots of amusement in the days of "lang syne."

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### WILLIAM F. SHARPE.

Born December 13, 1806. Died April 10, 1893.

The Sharpe homestead was somewhere in Connecticut—at Abingdon I think—and there the subject of this sketch was born. During his active and energetic life in this county Mr. Sharpe would hardly have been credited with any great amount of sentiment but he had enough fondness for the old home to retain ownership of it through all the reverses of his later years and finally went there to spend his old age and it was there, I am informed, that he died, at the advanced age of upwards of eighty-six years. For many years Mr. Sharpe was deemed, and probably was, a wealthy man. His home in Goshen was the center of a generous and stately hospitality. In the following sketch of Mr. Sharpe's life which was prepared by Hon. R. C. Coleman who was a student in the office of Sharpe & Winfield, a reason is given for the reverses which overtook him in his later years but it occurs to me that in addition to that cause assigned by Mr. Coleman it is quite probable that the dissolution of the firm of Sharpe & Winfield, which occurred in the year 1872, had an injurious effect upon Mr. Sharpe's



WILLIAM F. SHARP



business as a lawyer. He was a vigorous and industrious man of a somewhat aggressive disposition but a pleasant companion and a genial host. Mr. Coleman writes as follows:

"Temperamentally Mr. Sharpe and Mr. Winfield were very different. Mr. Sharpe in business was cold, calculating and unemotional, but just. I never heard his integrity questioned. I have heard it said his idea of a compromise was to get it all for his client. In his home he was hospitable and cheerful, quite as much so to the younger men as to the older. Mr. Winfield was always sociable and a generous liver. Professional work was irksome to him, except when in court. He was a skillful and rapid draftsman of pleadings and other legal documents, which Mr. Sharpe would afterwards go over mercilessly, boil down and correct, resulting in the end in a sound piece of work. In business, Mr. Sharpe was the hard working, painstaking member, while Mr. Winfield was the brilliant one who brought most of the litigated business to the office and Mr. Sharpe, the management of estates and general law business. Winfield preferred to do his work early in the morning before the others arrived — Sharpe was always to be found at his desk during office hours. Both undoubtedly knew the need one had for the other in business though they both chafed under it. Unquestionably they did for a number of years the largest and best law business in their end of the county, if not in the whole county.

"Mr. Sharpe began practice in Middletown and Mr. Winfield in Chester, but both soon settled in Goshen. In life Mr. Sharpe was a saver and Mr. Winfield a spender, but in the end both died poor—one from unfortunate investments in real estate; the other from lack of thrift and from prodigality. Naturally Mr. Winfield made hosts of friends and Mr. Sharpe fewer, but those were truer."

## THE FULLERTONS.

Three of this family became members of the bar of this county, viz.: Daniel, William and Stephen Whittaker. The oldest of these three, Daniel, can hardly be said to have been one of the prominent lawyers of the county but it was not due to any lack of native ability on his part that he failed to attain to that distinction. In the opinion of the older members of our bar he was as richly endowed by nature as was either of his more famous brothers. He had the quickness of wit and readiness of resource of William and the tact and astuteness of Stephen W. In eloquence of speech he probably surpassed either of the others for he was of a more emotional nature than they and he gave ready and fluent expression to sentiments of pity or sympathy. The bar of this county lost what might have been a very prominent member when Daniel Fullerton failed to make the most and the best of the powers that had been given him. He died in the year 1865 at the age of about fifty-one years—having been born on February 10th, 1814.

Turning now to the two members of this family who became prominent at our bar,—William and Stephen W.—these facts are to be recorded: William was born on May 1st, 1817, and died on March 18th, 1900. Stephen Whittaker (who was named for his father) was born on October 17, 1823, and died on April 3rd, 1902. Their early home was in the Town of Minisink where their father was a man of considerable influence for a good many years. For one term he was the member of Assembly from his district; for five years Associate County Judge; and for sixteen years consecutively a Justice of the Peace.

These offices while of no great importance in themselves show that the elder Fullerton was held in good esteem by his neighbors and it may be that the fact of his holding them and the

nature of the business to which they led him to give more or less of his time had some influence in causing three of his sons to adopt the law as their vocation.

These sons all resembled their father strongly in physical traits and in mental equipment. They were all like him of average stature, rather under than over, all sturdy and "stocky" built, all very quick and active, both physically and mentally. The youngest of the three—Stephen W.—had rather more of his mother's traits than the other two had. His caution and his remarkable tact seem to have been inherited chiefly from her. She was a Stephens—Esther Stephens—and came of Puritan ancestry. She was recognized by all her neighbors to be a woman of very superior mental equipment, of great tact and far-sightedness and of uncommonly good judgment. It is worthy of record that both the grandmothers of the distinguished men concerning whom this sketch is written were sufferers by reason of the Indian depredations at the time of our Revolutionary War. Their mother's mother was named Amy Cooley and her mother was killed by the savages in one of their raids near Middletown. Three of the children of the family were taken at the same time into captivity—from which, by the bye, they never returned save that one of them came, many years later, for a short visit to the neighborhood of his old home.

On the other side of the house,—their father's mother was Mary—(Polly)—Whittaker and she was one of the school children whose faces were marked with paint by Brandt in order that their lives might be spared by his savage followers at the time of the Wyoming massacre. She fled, with other survivors of that tragedy through the wilderness towards her old home in Orange County.

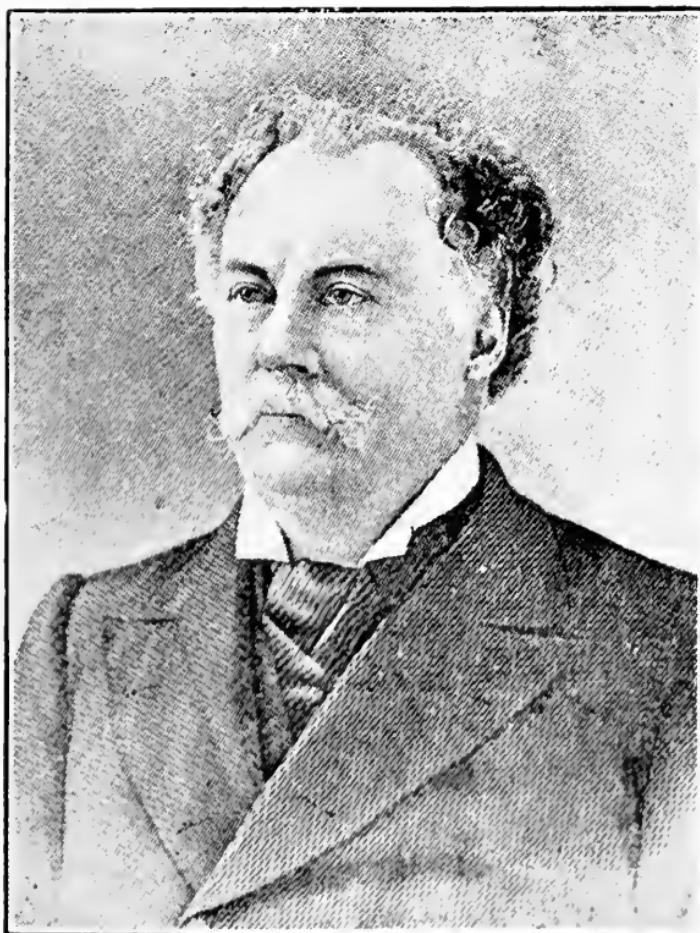
WILLIAM FULLERTON was the second son,—the third child—born into this family

which, by the bye, ultimately consisted of seven sons and five daughters. He seems to have enjoyed better educational opportunities in his youth than did any of his brothers or sisters so that at the age of eighteen years he was prepared to enter the junior class at Union College. There he remained only one year but withdrew "in good standing" as the records of the college show. His class—that of 1837—contained an unusual number of young men who afterwards rose to positions of eminent distinction and the acquaintances then made must have exerted a strong influence on all Fullerton's subsequent life. Among his college classmates was Joseph W. Gott who became one of the prominent lawyers of this county a few years later.

After leaving college Mr. Fullerton is said to have gone to the South and taught school for a short time. This rumor I have been unable to verify but if it is correct his stay at the South must have been brief as he studied law with William C. Hasbrouck in Newburgh and was admitted to the Bar in 1839.

His success in his chosen profession was marked and his progress to the front rank was very rapid. He had all the elements of a great nisi prius lawyer. Other members of the Bar of this county of that day surpassed him in eloquence of speech beyond a doubt, but in the management of litigated business he had no superior and probably no equal. He was surpassingly keen, quick and adroit; very energetic and industrious; more a "man of the people" than most of his competitors and a smooth, ready and forcible speaker. As a cross-examiner he became famous so much so that he was known as "the great American cross-examiner."

In the year 1852 he was pitted against Charles O'Connor, of New York City, who was then one of the leading lawyers of this country, in some litigation connected with the construction of the



WILLIAM FULLERTON



Hudson River Railroad. The matter had been argued at considerable length before Judge Emmott at Poughkeepsie. At the close of the argument both attorneys asked leave to submit briefs. The judge seemed to feel that briefs should have been prepared before the argument and said that they might have until Saturday, which was then two days off, for submitting printed briefs. O'Connor deemed it impossible to get the work done in the allotted time and made no attempt to do so but Fullerton got Judge McKissock to help him and together they went to the printing office of E. M. Ruttenber and there the three worked nearly all night, McKissock stating the points of law and naming the cases which covered the point; Fullerton looking up the case as reported and stating the language in which the proposition should be briefed and Ruttenber setting the type. In the morning the brief was on the press and the next morning it was in the judge's hands, and was a winning argument. O'Connor was so impressed by Mr. Fullerton's management of this case that he offered him a partnership. This was accepted and Mr. Fullerton removed to New York in the year 1853 and a co-partnership was formed then or about that time under the firm name of O'Connor, Fullerton & Dunning,—the last being also an Orange County man, viz., Benjamin F. Dunning.

From this time on Mr. Fullerton's connection with Orange County affairs may be said to have ceased, though he retained his residence at Newburgh as long as he lived. It need only be added that he was thenceforth engaged in most of the important law suits tried in the metropolis and his standing as one of the greatest trial lawyers of this country was universally conceded.

During his earlier years in New York he was sometimes spoken of there among the court attendants as "the Orange County cyclone" and

his methods were watched with much interest and some curiosity.

It is told of him that soon after going to the city he was employed to try a case in Admiralty. The hangers-on about court assumed that he didn't know anything about a sea-going vessel and they gathered to watch the trial and enjoy the sight of the country lawyer's discomfiture. But they were doomed to disappointment. Mr. Fullerton spent the entire night preceding the day of the trial on board the vessel to which the action related and before morning he had learned the name and use of every spar and sail and rope and was completely armed and equipped for the fray.

In a number of cases in which he was the plaintiff's attorney, Mr. Fullerton has been known to call the defendant as his first witness and then by a careful and skillful examination get this witness to commit himself to a theory which could be destroyed later by plaintiff's other witnesses. The delicate treatment required in such a manoeuvre will be appreciated by those who may have ventured to try it.

William Fullerton's most conspicuous participation in any Orange County litigation after he removed to New York was in connection with the Berdell cases.

As to the merits or demerits of those cases I shall not attempt to speak. I know that they nearly disrupted every social circle in Goshen. The Fullertons were opposed to Mr. Berdell in those actions and their management of them was masterly. Mr. Berdell was a man of wide business experience,—an ex-president of the Erie Railway Company and well able to defend himself when on the witness stand. His cross-examination by the Fullertons, first by Stephen W. and then by William on the trial of one of those actions was one of the most striking examples of the art of cross-examination ever

witnessed in this county. In three different instances Mr. Berdell was driven from point to point in attempting to explain some of his transactions until finally he was compelled to say, "I cannot explain that." Taking into account the mental equipment of the witness and his business experience this was a very remarkable exhibition of the ability and ingenuity of the men who were questioning him.

There was one painful experience in Mr. Fullerton's life to which I must refer because some reader of this sketch might misconstrue my silence. He was indicted at one time for alleged frauds upon the United States Government in connection with the settlement of some actions for penalties wherein he had been retained to assist the United States District Attorney. I happen to know the motive for this attack upon Mr. Fullerton and am able to state that there was absolutely no substantial basis for the accusation. This was shown conclusively at the trial for the presiding judge *directed the jury to acquit* the accused. Such a charge, however baseless it may be, leaves a scar on any lawyer's reputation and doubtless Mr. Fullerton was pained most deeply and injured to some extent in his business by this baseless and malicious accusation.

The only public office ever held by the subject of this sketch so far as I have been able to learn was that of a Justice of the Supreme Court, to which he was appointed in August, 1867, to fill the vacancy caused by the death of Judge Scrugham. Under the arrangement which then prevailed in this State by which certain of the Supreme Court Judges became members of the Court of Appeals during the last year of their official term Mr. Fullerton was for a short time a member of the highest court of this State. It is worthy of remark that at that same time John K. Porter was also a member of that august

tribunal and these two men had been classmates in college thirty years before.

STEPHEN W. FULLERTON was the sixth child—the fourth son—of the family and was named for his father. When only about sixteen years old he came to the City of Newburgh and obtained a position as junior clerk in the post office. This was at the time that his brother William began to practice and it was not long before Stephen W. was taken into his brother's office and began to read law. He was admitted to the bar in due course and began his professional life by forming a co-partnership with his brother Daniel whose office was at Slate Hill. It must have been hard work for the two to get a living at the law in such a little and remote village as that. It was for that reason probably that Stephen Fullerton returned to Newburgh a few years later in pursuance of the suggestion of his brother William. Here he slowly, but surely, made his way to the front rank of the profession and upon the removal of William to New York in 1853 Stephen W. succeeded to a considerable share of the business of the older brother.

He remained at Newburgh until 1873 when he removed to New York and formed a partnership with his brother William and two other lawyers under the firm name of Fullerton, Knox & Crosby. The connection was an unfortunate one because of the misconduct of one of the junior partners; and at the end of four or five years of hard work the firm was dissolved and the Fullertons found themselves saddled with a heavy indebtedness which it took them several years to discharge. These things interfered more or less with Mr. Fullerton's success as a metropolitan lawyer but in spite of them he progressed steadily, though slowly, towards "the very first line" and came to be recognized by his fellow-lawyers as fully equal to his brother William in all the



STEPHEN W. FULLERTON



qualities which go to make a great lawyer. His success would have continued, doubtless, had it not been for a very serious injury which he received in the year 1891 by being thrown from his wagon while driving in Central Park. His horse was a very high-spirited one and when the bit broke Mr. Fullerton had no control of him. He was thrown from the wagon and fell heavily, striking upon his head. For twenty-eight hours he was unconscious and he never fully recovered; he was never quite the same as before. His phenomenal mental powers had lost an undefinable something which left him less able to cope with the duties and problems of his professional work. He fought on however as best he could till the end—always the same courageous, unselfish, generous, lovable man. The deepest sorrow of his old age arose from his inability to aid others and his need of help from others. The last three or four years of his life were spent at Middletown, near the scenes of his boyhood days, and there the final summons came to him on April 3, 1902—in the form of a stroke of paralysis.

At a meeting of the bar held at Newburgh to adopt resolutions of respect eloquent tributes to his worth were paid by Mr. Charles Rushmore of New York, by Mr. Luther R. Marsh, of Middletown, (formerly a partner of Daniel Webster), and by Hon. M. H. Hirschberg, the presiding justice of the Appellate Division of the Supreme Court—who was, in early life, a student in Mr. Fullerton's office. These addresses were all admirable but that of Judge Hirschberg was pre-eminently so and was so fit and just a tribute to Mr. Fullerton's memory that I shall quote from it freely. Judge Hirschberg said:

"His greatness was innate. It was the result of native talent and genius and not at all of adventitious aid or fortunate surroundings. He had a mind that was at once alert, sagacious, clear, powerful and comprehensive; a temperament

that threw him, body and soul, into his client's cause so that he would win if he could; not for gain, as in this commercial age, but, if need be, at the sacrifice of every dollar he possessed; and withal a shrewdness, an adroitness, an instinctive subtlety in the comprehension of human nature and its complicated motives and impulses and in anticipating its least expected manifestations only equalled, if at all, in the marvelous creations of fiction. I shall not hesitate to express the opinion as a deliberate judgment, formed after nearly thirty-six years of experience and observation, that in his prime, when he was in the plentitude of his health and vigor, the issue of fortune, of honor, aye, of life itself, was as safe in his professional keeping as in that of any other man, however high in standing and repute, who then practiced law in the State of New York.

"To speak of Judge Fullerton as a man is to speak wholly of sweetness, gentleness, kindness and geniality, companionship, whole-souled friendliness and generosity. His heart was as large as his mind. His friendship was heroic in its loyalty, of that rare kind that brooks neither offense nor calumny, but adheres alike through evil and through good report. With him no lie about a friend could ever gain a hearing.

"His life was full of stainless honor, modest usefulness and manly self-respect. A noble and commanding figure has floated down the current of our contemporaneous life into the mysterious and fathomless sea of the unknown. A great heart has ceased to throb; a mighty voice is stilled."

During his residence in this county he filled various public offices. He was a member of Assembly in 1858; a member of the Constitutional Convention of 1867; District Attorney of the county in 1868 to 1871; County Judge from 1872 to 1878. His personal popularity was unbounded and whenever he ran for office he was elected by heavy majorities.

He was generous to a fault. The writer of this sketch had a somewhat intimate knowledge of his charities and is able to state that he gave away during his lifetime enough to have constituted a very considerable fortune. Indeed his generosity seemed to an observer somewhat indiscriminate and injudicious but it was consistent when once you grasped the underlying motive. He gave help not because the recipient deserved, but because he needed it. He imitated Him who "sendeth rain on the evil and on the good." A truer, kinder, more loyal or more courageous heart never beat. A keener, clearer, more vigorous mind it has never been my good fortune to come in contact with.

During the period of his stay in this county he formed two co-partnerships. The first was with Charles H. Van Wyck, who was afterwards a Member of Congress, a Colonel in the Union Army during the Civil War, and still later a United States Senator from Nebraska, who was known by the irreverent youths of the West as "Crazy Horse Van Wyck."

His second partnership was with the writer of this sketch who cherishes the memory of that relation with much pride and satisfaction. It continued until Mr. Fullerton removed to New York City.

William Fullerton had one son and one daughter. The son pre-deceased him and died in early manhood, unmarried. The daughter is still living (1917) and is the widow of \_\_\_\_\_ Rudd. She has one child, a daughter, Alice, (now Mrs. Otis), who has three sons.

Stephen W. Fullerton left one son, Frank, who is still living to the best of deponent's knowledge and belief.

Daniel Fullerton left several children and a number of his grandchildren still survive. One of the latter is a practicing lawyer—Henry B. Fullerton—whose office is at Port Jervis.

(The following sketch was prepared by William Graham, L. L. D., at Mr. Anthony's request.)

### HON. JOHN JAMES MONELL.

Like General Borland, William C. Hasbrouck and Judge McKissock, Judge Monell was a native of the Town of Montgomery. His parents, Samuel and Elvira (Scott) Monell, both sleep in the cemetery adjoining Goodwill Church, both having been members of that organization. Like each of the lawyers above named, he was a student at Montgomery Academy, but was prepared for college by that distinguished scholar and preacher, Rev. Dr. James R. Wilson of Coldenham. He was graduated at Union College in the class of 1833, standing well toward the front in a class which included many able men, two of whom were afterward distinguished Judges of the Supreme Court. He studied law under Hon. John W. Brown, was admitted to the bar in 1837, and immediately entered upon practice in Newburgh, and soon attained a high rank in his profession, and was successful both in winning his cases, and in obtaining a proper return for his labor.

As a lawyer he was careful in the preparation of his cases, accurate in his pleadings, laborious in preparing his briefs, clear, cogent and concise in his presentation of the law to the court, luminous, convincing and attractive in his addresses to the jury, and, whether on the winning or the losing side, never failed to protect and preserve the rights of his clients.

In his earlier life he was a pronounced Democrat, prominent and influential in the counsels of his party. He received the nomination for Congress in 1846, but owing to the dissensions between the factions of his party, was defeated. In 1859 he was elected County Judge, and served one term which was the only elective office he



JOHN J. MONELL.



ever held. In the latter part of his life he affiliated with the Republicans.

In every movement for the civic improvement of Newburgh he was active and prominent. No more public-spirited citizen lived in the town. His hand and voice and purse were freely given to every effort for benefiting or beautifying the city. His public addresses in behalf of such efforts were full of eloquence and beauty, and no public enterprise for worthy objects failed to receive his support.

Judge Monell was possessed of a singularly equable temper which notwithstanding his high spirit he held under strict control. I never saw him out of temper but once though often sorely tried. On this occasion a brother lawyer, at whose request he had consented to the continuance of a case in a Justice Court several times for his accommodation, claimed that the case was adjourned out of court. The case though a small one involved an important question on which the plaintiff wished to obtain a ruling from the General Term. The defendant's counsel succeeded in obliging the plaintiff to bring a new suit, but Judge Monell never took his word for anything afterward.

I began the study of law under Judge Monell in the fall of 1852 but did not enter his office until May, 1853; from that time until my removal to Iowa, our association was much closer than is usual between preceptor and scholar, and I learned to admire the clearness of his perceptions, and the soundness of his judgment. Few men ever possessed a kinder heart, a fact that some, who were by no means his friends, were not slow to take advantage of. I have known few men who were more eager or persistent in pursuit of the "Almighty Dollar," and still fewer who were more liberal in dispensing it after it was won. There was not the least trace of the miser about him. It was for the satisfaction of winning that

made him so keen in the contest, and when he had won he was ready to share the fruits of victory in the advancement of civic righteousness, or the adornment of the "City Beautiful."

When the heart is kind it is generally tender and sensitive, and to such a person the contests of the court room in the trial of cases often become distasteful, and when other avenues open upon vistas of greater profit, with less wear and tear of sensibility, it is no wonder that men who possess rare gifts of persuasiveness, and large stores of legal knowledge, prefer the less conspicuous and more profitable employment of their talents. I am satisfied in my own mind that it was some such considerations which led William C. Hasbrouck and Judge Monell to withdraw largely from litigated business, and devote themselves to the management of large estates.

The last interview I had with Judge Monell was a few months before his death. He insisted that I should go home with him to dinner, and as we sat on the porch of his spacious residence overlooking the noble bay with its grand surroundings, which he loved so much, he told me more of his life than he had ever told before. Among other things he said that he inherited from his father a certain amount of money, and a calculation of what it would amount to if he invested it and accumulated the interest, demonstrated that if he lived till his sixty-fifth birthday he would have a fortune ample enough for him to retire on, and he then made a resolution that he would keep his patrimony accumulating, and not spend a dollar of it, and that he would live upon his earnings at the bar, and not stint himself as long as he kept within his income from that source. He said he had adhered to that resolve all his life, and that the legacy he had received from his father was still intact with all its accumulated dividends. He further said that

as he approached his sixty-fifth birthday he saw his fortune was more than double what he had resolved to retire on, but his health was excellent, and all his mental powers unimpaired: That his business was never better, or more profitable, and his office in New York, on the days he was there, was crowded with clients. It was a severe struggle with him whether he should keep on at work, or retire when his powers and his business were at the maximum. He said that on his sixty-fifth birthday he went to his office, and after reviewing the situation fought the problem out with himself, with the result that he took all the papers relating to the cases then under his charge to Cassedy and Brown, and asked them to try the cases for him, and from that day he had not interested himself in any business except that of his own, or his family. He added that I could scarcely understand how much he had enjoyed his retired life, resting under his own vine and fig tree, or rusticating on his farm at White Lake.

In that conversation I tried to express my sense of obligation to him for his aid and counsel to which he would not listen, but said that if he had aided me in any respect it was because he liked to do it and it was a source of real enjoyment to him, but if I felt under any obligation to him I could discharge it by doing as much for some other student of law, and "you know," said he, "it is our business and duty to help others." And so at the sunset of that summer day we parted to meet no more on earth, but while memory endures the recollection of the kindness of heart and the grace of character of Judge Monell will not fade from my mind.

#### ADDENDA BY W. C. A.

Judge Monell was twice married. His first wife was Mary C. Smith (of Connecticut), a woman of unusual attractiveness and of consider-

able literary cleverness. During her life-time their home was in the City of Newburgh and was a sort of social center. Every person of note who visited this city was almost sure to be invited to spend some part of his stay with the Monells and a congenial circle of friends would be gathered there to meet him. Their home was famous for its charming hospitality. Judge Monell's second wife was Caroline E., daughter of John P. DeWint and widow of Andrew J. Downing ("the father of American architecture"). Her ancestral home was at Beacon and Judge Monell therefore sold his Newburgh home and built a new one on the Fishkill side of the river.

Judge Monell was a graceful, easy speaker, who was always listened to with pleasure,—a scholarly, thoughtful and cultivated gentleman. His hospitable ways continued in a marked degree as long as he lived.

He was born February 24, 1813, and died April 22, 1885. Graduated (Union College) 1833; admitted to the bar in 1837. He left one child, a daughter who married Fred S. Wait, a lawyer, the author of several text-books on legal subjects.



### JOHN G. WILKIN

was born on October 22nd, 1818, in what is now the Town of Hamptonburgh in this county. His education was obtained principally at the Montgomery Academy where he was a student for a number of years. Afterwards he taught school at Monticello, N. Y., for several years and seems to have combined with that occupation the study of the law, which he pursued in the office of William B. Wright who afterwards became a Justice of the Supreme Court, an Associate Judge of the Court of Appeals and a lawyer of marked distinction. Judge Wright was an



JOHN G. WILKIN



Orange County man—(born at Newburgh)—and began his professional career here. He would well deserve a place in this book were it not for the fact that his work as a lawyer while he continued to be a member of the Orange County Bar gave little indication, if any, of the ability he possessed and little promise of the success he achieved. His real work was all done after he removed from this county.

After spending several years in Judge Wright's office Mr. Wilkin entered the office of General A. C. Niven of Monticello.

In October, 1842, he was admitted as an attorney and in 1845 as a counselor at law. Meantime—in January, 1843—he had opened an office in Middletown and he continued to make that place his home and to maintain his office there up to the time of his death which occurred on the 19th day of January, 1889.

Under the militia system then in force in this State he was a Brigadier Judge Advocate and under the legal system he was an examiner in chancery. He was the first Special County Judge and the second County Judge to be elected in this county. To the latter office he was elected in November, 1851; and again in 1881 he was chosen to the same position. From 1861 to 1869 he was the United States Revenue Collector for this district. The office was an appointive one and the general feeling among the older lawyers of the county was that Judge Wilkin had impaired his standing as a lawyer by accepting it.

Mr. Wilkin was a large, fine looking man of impressive presence and agreeable manners. For many years he was the leader of the Middletown bar. This assertion applies more to his position as an office lawyer than as an advocate.

In the trial of cases some of the members of the bar could fairly challenge his leadership but it seemed to me that the important and profitable legal business of Middletown and its vicinity

found its way, generally, to Mr. Wilkin's office.

He had the reputation, and I doubt not deserved it, of being "learned in the law." Aside from this his business experience had been considerable and he had good practical common sense. Whenever he had an important case to be tried he usually associated Gedney or Fullerton with himself in connection with the work in court. He may at times have employed Winfield for this part of his business though I do not recall such an instance now. He was a very pronounced Republican and though he undoubtedly would consult his clients' wishes as to the trial counsel to be employed his political leaning prompted him, if the choice was left to him, to select either Gedney or Fullerton.

Charles C. McQuoid, a very promising young lawyer, residing in Middletown, who died at an early age—(in his thirties I think)—was his partner in business for a time and looked after the litigated business of the firm.

Judge Wilkin was possessed of much force of character and had a strong—but not a winsome—personality. His industry was marked; his loyalty to his friends was sincere; his diligence in protecting and promoting the interests of his clients was intense; his integrity was unquestioned and unquestionable. Take him for all in all he was well adapted to be a leader in a young, growing, active place, such as Middletown then was and he naturally became one of the most prominent men in that community. I am describing the man as I saw him. My acquaintance with him was not especially intimate, and I have therefore tried—but in vain—to induce some of the Middletown lawyers who knew him well to write this sketch.

## JOSEPH W. GOTTO.

Born May 25, 1814. Died January 6, 1869.

In his day Mr. Gott was a power in this county. His influence was not due to any office or position which he held but to the inherent qualities of the man himself. His health was never robust and for a number of years prior to his death he had to husband his strength carefully: he had no surplus energy to devote to pursuits outside of his own business matters and those of his clients. Not that he failed to take a keen interest in public affairs and to exert all the influence of his strong personality and commanding ability in behalf of every cause that commended itself to his judgment and conscience—but all this had to be done in a quiet way.

His accurate and extensive knowledge of the law combined with sound judgment and admirable business habits led to his employment as counsel in most of the heavy transactions which arose in the western end of the county and I feel justified in asserting that he was more frequently called upon for advice by his fellow-lawyers than was any other lawyer in the county at that time.

When I was a student in Goshen in 1864-5, Mr. Gott was in declining health. He knew that his days were numbered and must be few but his courage never failed and his devotion to his business never flagged. Day after day he was at his desk, always cheerful, always thoughtful of others and never demanding or expecting any consideration or favors on account of the condition of his health. In fact nothing would disturb him more quickly than an intimation that his infirm health entitled him to any different treatment from that extended to people who were well and vigorous. And so he went to his death “without fear and without reproach” at the comparatively early age of fifty-nine years.

Mr. Gott did not cultivate litigated business.

When compelled to look after a client's interests in court he usually associated Judge Gedney with himself and the two together made a combination of very unusual ability. In his early practice he is reputed to have tried a considerable number of cases but the strain upon his health and the tax on his patience led him later to forego work of that sort. In fact his partnership with Samuel J. Wilkin during the early years of his career naturally tended to develop in him a preference for the work of the office while his partner looked after the court business.

Hon. R. C. Coleman was managing clerk in Mr. Gott's office for some four years—1865-8—and was thus brought into very close relations with him and he writes thus concerning him: "His kindly consideration and helpfulness to me in my inexperience \* \* \* were in keeping with his kindness of heart and his unselfish nature and have always been to me reason for bearing him in most grateful remembrance."

The subject of this sketch was born at Austerlitz, Columbia County, N. Y. He entered Union College in 1834 and graduated in 1837. Immediately after that he came to Goshen and became principal of Farmer's Hall Academy.

Two years later he began the study of the law and entered the office of Van Duzer & Sharpe. In 1842 he was admitted to the bar and for a number of years during his early career he was in partnership with Samuel J. Wilkin.

He served for several years also as post master at Goshen and was, at one time, one of the proprietors and editors of The Goshen Democrat.

His intense application to business during this period of his life is thought to have contributed to the illness which ultimately caused his death.

Shortly after Joseph F. Barnard, of Poughkeepsie, was elected—for the first time—a Justice of the Supreme Court, Stephen W. Fullerton was questioned in regard to Barnard's standing



JOSEPH W. GOTTF



as a lawyer. The query was "is he an able lawyer?" "Very decidedly so," replied Fullerton. "As good a lawyer as Mr. Gott?" was the next question. The answer was, "I don't know about that—'Joe' Gott is a confoundedly good lawyer." This shows the estimation in which Mr. Gott was held by a brother lawyer who had had abundant opportunity to take his measure and who was well qualified to judge as to his ability.

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### EUGENE A. BREWSTER.

Born in New York City, April 13, 1827.

Died December 14, 1898.

In Mr. Brewster were combined such diverse traits of character as to make him seem like two different men. In his office and in all business transaction he was reserved, austere, distant and seemingly unsympathetic. In his intercourse with friends where the restraints of business were thrown aside he was companionable and genial. He was a student and clerk in the office of John W. Brown for six or seven years and would seem to have been to some extent an unconscious imitator of his preceptor. He lacked, however, the power of influencing his fellow-men by his spoken words which Judge Brown possessed in such a pre-eminent degree. Before a referee or a judge or even a bench of judges Mr. Brewster argued a legal question well; but before a jury he was not at all successful. His manner conveyed the impression that he himself did not really believe the propositions which he was urging the jury to adopt. In other words he did not give the impression of being in dead earnest. Not that there was anything light or trifling either in his manner or in the substance of his

remarks. It was rather due to an appearance of reserve; he did not seem to put his heart and soul into it. He was entirely destitute of "magnetism;" yet no man could take a deeper concern in the success of his clients or guard their interests more carefully than did Mr. Brewster. His sense of what was due from a lawyer to his clients was very keen as was also his sense of what was due to the lawyer from the client. He has been known to decline to do business for a person who expressed dissatisfaction with his charge for his services. His idea was that as soon as a client lacked absolute faith in his attorney's integrity and good judgment the relation should terminate. His charges for legal services were never excessive; in fact they were usually less than might have been properly charged by a lawyer of his standing. This was another of the traits that he had brought with him from Judge Brown's office—and it continued to influence him strongly as long as he lived. Notwithstanding all this he was the most successful lawyer, in a financial way, that has ever been a member of our County Bar and probably of any one practicing in this section of the State. Starting with very limited means he accumulated a very handsome fortune. This was done by his own unaided efforts and without any profits from speculative ventures. It is true that he had a succession of managing clerks in his office who all (save one who died early) became, later in life, successful and able lawyers, but this does not detract from the credit due Mr. Brewster for so organizing and conducting his business that it was largely profitable. Neither was his accumulation of wealth due to any miserly economy. He was a liberal giver to causes or people that he felt deserved it, and a free and generous liver. It is true he did not "carry his heart on his sleeve" but whenever an appeal was made to him which his judgment approved of he was willing



EUGENE A. BREWSTER



and able to give assistance and to give liberally. There are lawyers a plenty who are *always* willing to "lend a hand" but never able to do much. Mr. Brewster was not a promiscuous giver—(or lender, which often amounts to the same thing in the end)—but was always able to do what the situation demanded.

For a number of years—say from 1860 to 1870—the important office business of this county was done largely by Mr. Brewster at Newburgh and Mr. Gott at Goshen. They were both excellent lawyers, both very prompt and diligent in attending to business, always ready to meet engagements on time and very seldom, if ever, asking postponements. They resembled each other too, in this, that they were very skillful pleaders. Documents prepared by either of them were invariably brief, crisp and admirably expressed. It is worthy of remark that these two office lawyers were much more successful in getting and retaining a fair reward for their labor than were their more famous and conspicuous professional friends the "court lawyers" who practiced side by side with them.

Mr. Brewster was for many years the attorney and a director of The National Bank of Newburgh and attorney for the Newburgh Savings Bank. He was a Warden of St. George's Protestant Episcopal Church and deeply interested in its prosperity. He held no public office except such as were connected with our local city affairs.

His career can be summed up in these words: "He was devoted to his profession and was an able, honorable and successful lawyer."

(The following sketch was prepared by Hon. William Graham, L. L. D., of Dubuque, Iowa.)

### HON. WILLIAM C. HASBROUCK.

Born August 23, 1800. Died November 5, 1870.

Like General Borland and Judge McKissock, William C. Hasbrouck was a native of the Town of Montgomery and like them, also was educated at Montgomery Academy; thence he went to Union College, from which he was graduated with distinguished honor in 1822. After his admission to the bar he settled in Newburgh and the rest of his life was passed in close connection with its activities. He was a close student, an accurate lawyer, a thorough man of business, and of untiring industry. After many years of successful practice, he gradually withdrew from litigated business, and devoted himself to the management of the financial affairs of his numerous clients. His management of these affairs was so careful and sagacious that his business attained large proportions. I remember hearing it said that he was the best real estate lawyer in Orange County if not in the Judicial District.

Either his partner, or one of his clerks told me that he kept a copy of every negotiable instrument that ever passed through his hands, and an abstract of any deed or mortgage; and they were so filed away and indexed that in a few minutes he could produce any of them, and the array of boxes, two or three shelves deep around his office, made it easy to believe the statement.

A polished gentleman of graceful manners, of easy address, and an interesting speaker, delightful in conversation, overflowing with anecdote, a genial companion, an accomplished host, I have met few men whom I admired more than the subject of this sketch. His manner toward the younger members of the bar, and students of law, was most agreeable. There was none of



WILLIAM C. HASBROUCK



that haughty condescension, or frigid dignity that some assume, nor on the other hand, was there any lowering of the consciousness of what was due to himself by reason of his age and experience. His attitude and action seemed to say, "Boys, I have been one of you myself. I know just how you feel and expect some day I will meet you on the same plane with myself."

At the October, 1855, General Term, Mr. Hasbrouck was chairman of the committee to examine applicants for admission to the bar, among them John Miller and John D. Gurnee from his own office. He did not spare them any more than the others. (I did not apply at that term, not feeling myself competent; possibly I felt that if I failed to pass I would rather fail at some other place than at my own home, so I waited till the January term at Brooklyn. Nevertheless, at their persistent solicitation, I "crammed" two young fellows, Frank P. DeWint and Henry E. Davies, Jr., for their examination and they passed). At the close of the examination Mr. Hasbrouck gave a short talk of advice to the class, one sentence of which has always stuck in my memory: "Young gentlemen! Learn all the tricks of the law, but never practice any of them." This was strictly in accord with his own conduct, for I do not believe that the roll of the New York bar contains the name of one who was more honorable in his practice, or who observed with greater or more punctilious rectitude the ethics of his profession than the subject of this sketch.

Mr. Hasbrouck once gave me this leaf from his own experience. A client in Dutchess County entertained some fears as to the validity of his title to his farm, and he told him to bring out his deeds, which he did a day or two afterward, a bushel basket full. The counsellor examined them all with his usual circumspection, and wrote an opinion sustaining the validity of his

title. In this examination he found inside of one of the old deeds, three one hundred dollar bills of the Bank of Newburgh of the issue of 1817. He placed these in a drawer, and when his client came over he read his opinion, at which the client was delighted. He then asked Mr. Hasbrouck the amount of his fee, and he answered that in examining the papers he had found some old documents that had no reference to the title, but as he was himself something of an antiquarian these were of some value to him, and with his client's permission he would accept them in full payment. The client was glad to get off so easy, and expressed himself as more than satisfied, and was about to depart, when the counsellor suggested that perhaps he had better see the documents himself, and produced the bank notes at which the client was thunderstruck. They took them to the bank which promptly redeemed them, though they had been out of the bank for a third of a century. The client would have had the lawyer keep them as he had said, but Mr. Hasbrouck refused, but did accept one of them. Subsequently his client informed him that after the family had talked it over, it was recalled that his father had furnished Poughkeepsie with some sloop loads of cobblestone in 1817 to pave some of its streets, and complained that in the final settlement he had been in some way beaten out of \$300.00. He had probably got the deed from the clerk's office that same day and placed the notes in it for safe keeping, and forgot what he had done with them.

Mr. Hasbrouck was a Whig in his early days and was the candidate of that party for Congress in the great contest of 1844, but was beaten by General Niven of Sullivan County. In 1846 he was elected to the Legislature, over my father, and was chosen Speaker of the Assembly of 1847, and I have heard from members of that body

many commendations for the urbanity and impartiality with which he presided over its deliberations.

The following incident illustrative of his character was related to me by one of the officers of the defrauded bank:

"Mr. Hasbrouck took a great interest in a young friend of his and aided him largely, and placed him in a position which enabled him to defraud a bank with which Mr. Hasbrouck had extensive dealings out of a large sum of money. When this came to light, and the walls of the penitentiary loomed large before the young man, Mr. Hasbrouck voluntarily made good to the bank the amount of its loss, and by his influence and watchfulness brought the young man, whom he had saved from imprisonment back to the paths of integrity and usefulness: Saving thus 'a soul from death, and hiding a multitude of sins'."

ADDENDA BY W. C. A.

The foregoing sketch of Mr. Hasbrouck's career, prepared by Mr. Graham, seems to me so just and so well expressed that I have adopted it without change. It requires however a few words of explanation, and a slight correction. The "General Term," at the time mentioned by Mr. Graham, and for many years afterwards, was held in October of each year at Newburgh; in May at Poughkeepsie; and the other terms (two) were held at Brooklyn.

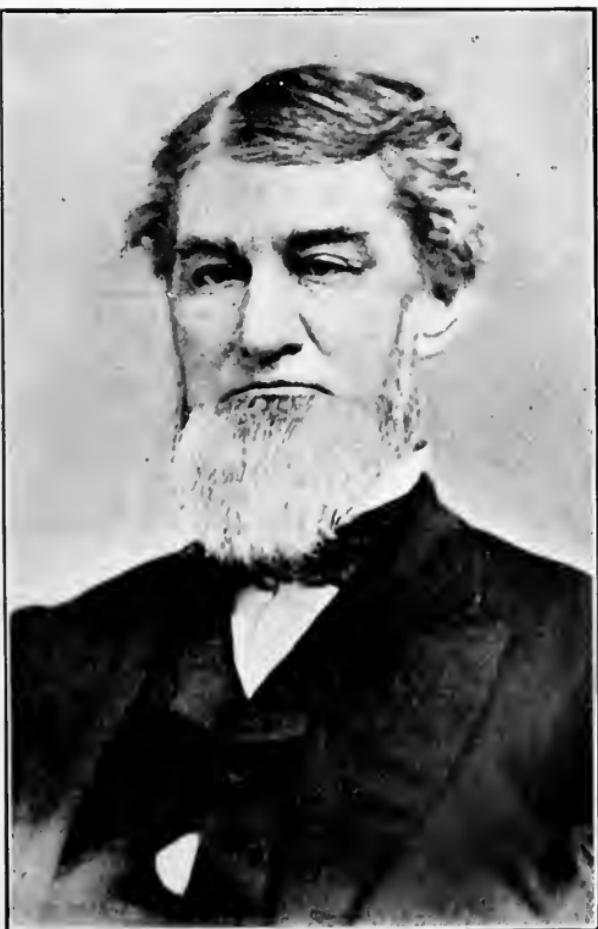
Mr. Hasbrouck did not come to Newburgh directly from college. Soon after graduating he became Principal of the Academy at Franklin, Tennessee. A year or two later he removed to Goshen, N. Y., and became Principal of the Farmers' Hall Academy.—At Goshen he studied law and was admitted to the bar in 1826.

Mr. Graham has stated in his sketch of Judge Monell, what I believe to be the main reason why Mr. Hasbrouck withdrew, as he did almost

entirely, from litigated practice and engaged in the work of investing money for his many wealthy clients. He was a very sensitive man and did not enjoy the asperities of active litigation. There were other reasons at that time due to the character and unusual strength of the competition which any one seeking to succeed as a trial lawyer had to meet. He drifted into this real estate business probably between 1840 and 1850.

John W. Brown, then the leader of our bar, was in his prime; McKissock, in some respects his superior, was in active practice; Samuel J. Wilkin, the peer of either of them, was still a formidable competitor; Gedney and Winfield and William Fullerton were rapidly rising to prominence at the bar of the county. It was no place for anybody to compete unless he loved the fray and feared no foe.

Another fact, or group of facts, that probably influenced Mr. Hasbrouck in choosing the special line of work in which he engaged was his wide family connection both on his own side and among his wife's relatives with people of large wealth who had money to invest. In that day it was not as easy to invest money with *seeming* safety as it has been of late years. There were few railroad bonds, if any—municipal bonds were almost unknown—and public utility bonds had not been dreamed of. This part of the State would not absorb any more money on good bonds and mortgages. Mr. Hasbrouck therefore turned to the western part of the State for mortgage investments and I have understood on good authority that so long as he continued in charge of the business himself, which was for many years, not a penny of his clients' money, principal or interest, was lost. His integrity was proverbial. He enjoyed the absolute confidence of his clients. His carefulness was extreme. For instance, he always required the mortgagor (and his wife if she



BENJAMIN F. DURYEA



joined in the mortgage) to make affidavit that he—or they—were severally upwards of twenty-one years old. On one occasion the mortgagor forgot that he had made such an affidavit and threatened to defend a foreclosure suit on the plea of infancy, but changed his mind at once when his affidavit was produced. Nothing but pity for his family on Mr. Hasbrouck's part saved the rascal from indictment.

William C. Hasbrouck was an ornament and a credit to the bar of this county.



(The following sketch was prepared by Hon. R. C. Coleman).

#### BENJAMIN FRANKLIN DURYEA.

Benjamin Franklin Duryea who was born in the Town of Blooming Grove was the son of James Duryea and Mary Heard Duryea and prepared for college at the Montgomery Academy, entered Union College in the Junior class in his eighteenth year and graduated in the class of 1835, with high honors and especial encomiums from the faculty for having delivered the ablest oration in Hebrew ever heard from an alumnus of the college. After graduation he was Principal of the Montgomery Academy for a short time, then studied medicine for awhile, but, finding it distasteful, took up the study of the law in the office of Van Duzer & Sharpe and was admitted to the bar in the winter of 1839.

He was elected Surrogate of the county and later a County Judge. While Surrogate he established the power of that Court to punish by imprisonment contempt of its decrees, his decision being confirmed by the Court of Appeals.

Mr. Duryea stood high in the estimation of his fellow-lawyers as being well read and grounded in legal principles and a safe adviser. In

manners he was always courteous and considerate. At the time of his death, in 1872, in the fifty-seventh year, he was the senior partner in the firm of Duryea & Bacon, having continuously practiced law in Goshen since he began.



### BENJAMIN F. DUNNING.

During the ten years, or thereabouts, that Mr. Dunning had his office at Goshen he attained a position at our Bar which fully entitles him to be classed among the distinguished lawyers of this county; and his reputation was maintained and enhanced after he removed to New York City. He was born in the Town of Minisink on April 15th, 1819, and graduated from Union College in the class of 1840.

For several years after graduating he studied law at Goshen in the office of Wescott & Gedney and then opened an office of his own. This he maintained until the year 1853 when he removed to New York City to become assistant to Charles O'Connor who was then United States District Attorney—(Southern District of New York)—and who was one of the leaders of the bar of this country. Shortly after this he entered into partnership with Mr. O'Connor and at the same time, or about the same time, William Fullerton became a member of the co-partnership, the firm name being O'Connor, Fullerton & Dunning. Thenceforth his professional career was devoted to his work in New York City though he continued to maintain a summer home in this county during his whole life-time.

Mr. Dunning was one of the most thorough-going business men I have ever met. Figuratively speaking he never failed to dot an "i" or to cross a "t". This trait was shown even in his use and pronunciation of words. He was very



BENJAMIN F. DUNNING



careful to choose the precise word he needed and in pronouncing a word he never slurred a single syllable. This tendency to great accuracy and thoroughness appeared to mark all his transactions and made him a most excellent counsellor.

During his stay in this county it was his custom to associate William Fullerton with him in the trial of his important cases and the two men made a combination which it would be difficult to equal anywhere.

My personal acquaintance with Mr. Dunning though slight was sufficient to enable me to state that he was a high toned, urbane gentleman whose manners were charming and whose conversation was delightful. For a number of years during my earlier practice the firm was Dunning, Edsall & Hart; later it became Dunning, Edsall, Hart & Fowler. The last named being the son-in-law of Mr. Dunning and in recent years, until his death, the President of the New York, Ontario & Western Railroad.

Mr. Dunning was prominent in New York City, not only professionally but socially. He was an Elder in the "Brick Church" (Presbyterian) at Fifth Avenue and Thirty-seventh Street for forty years.

His death occurred on October 16th, 1896, at his home in New York City.



### JAMES G. GRAHAM.

It was my privilege to know the subject of this sketch intimately during the last twenty or twenty-five years of his life,—in fact from the time he removed to Newburgh in 1866 until his death—and it is a "labor of love" to write about him. He had those traits of character which

were sure to win the affection of anybody who came to know him well. I doubt if he had an enemy in the world—nor can I conceive of his doing or saying anything that would justify any person entertaining an unfriendly feeling toward him. Full of kindness, geniality, cheerfulness and unselfishness he was an ideal companion, a loyal friend, a model citizen, an urbane gentleman and a sincere Christian. A young lady once said of him that he was “the dearest little man in the world” and she wasn’t far wrong.

He was witty, suggestive, well read, and possessed of a keen appreciation of good literature—and these qualities, joined to a pleasant and easy manner of speaking, caused him to be listened to with pleasure whenever he addressed an audience. “Stump speaking” was much more of a feature in political campaigns years ago than it is now and Mr. Graham was very often called upon to assist in that line of work. For many years no political campaign of importance was conducted without addresses by him being heard in most of the villages of this county and of Southern Ulster. As an after-dinner speaker he had few rivals and no superior in this part of the world.

I cannot but think that it was unfortunate for Mr. Graham that he began his professional life in a little, isolated country village—Shawangunk, now Wallkill, where he had no competition. If there had been a good, active, energetic lawyer residing in that same community it would have developed in Mr. Graham a more combative spirit, greater self-assertion and more readiness in the use of his resources.

The imperfect development of these qualities in him interfered with his success as a trial lawyer. It may be that his removal from Ulster County to Orange when he had reached middle age also had an influence in preventing him from attaining that position among the prominent trial



JAMES G. GRAHAM



lawyers of this county which his ability and character entitled him to hold.

He came to Newburgh when he was nearly forty-five years old and it is not easy—usually not possible—for any lawyer at that age, to build up a business in a new place. Whatever the reason was it is undoubtedly a fact that Mr. Graham appeared less frequently in connection with litigated business in the courts of this county than might have been anticipated on the part of a man of his gifts. To some extent he retained his clientage among Ulster County people and was active in the courts there to a greater degree, I think, than he was in our county.

As a counsellor he was careful, painstaking and safe and this branch of his practice would have been, in the hands of any one less scrupulously honest than he, the source of an income much larger than it yielded him. As he managed it

“Along the cool sequestered vale of life  
    He kept the noiseless tenor of his way”

receiving the blessing prayed for by Agur of old who said, “Give me neither poverty nor riches.”

He was a member of the Assembly from Ulster County for one term and from Orange County for two terms, and was the City Attorney for the City of Newburgh for six years. He was a director of the Middletown State Asylum and one of the Trustees of Washington’s Headquarters at Newburgh. This completes the list, I think, of the public offices held by one who would have graced any station to which he might have been elected.

The subject of this sketch was born at Shawangunk, N. Y., on October 29, 1821. His early education was obtained at the common school of his native place and later at the Newburgh Academy. After graduating at that institution he entered Columbia College and there graduated

in 1840. He studied law at Newburgh with Bate & McKissock until 1843 when he was licensed. From that time until 1866 his office was in his native village but in the last named year he removed to Newburgh and there continued to reside and have his office for the remainder of his life.

Death came to him on January 19, 1896, very peacefully but suddenly though he had been in poor health for several months. He died respected by all and beloved by all who knew him well. Peace be to his memory. May the forget-me-not and the amaranth grow upon his grave as emblems of the lasting remembrance in which he deserves to be held.

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#### DAVID A. SCOTT.

David A. Scott was the son of James Scott. He was born in the Town of Montgomery, Orange County, N. Y., August 18, 1825, and died suddenly at Indian Lake, in the Adirondacks, August 24, 1890. During the interval of sixty-five years covered by these dates, but more especially during his active manhood, his experiences and his usefulness were varied. After graduating at the Montgomery Academy and subsequently at Wesleyan University, he taught school for some years in South Carolina, but ultimately took up the study of law in Newburgh, and was admitted to the bar in 1856.

Thirty-four years of professional life and the manner in which it was passed won for him not only reasonable success, but gained for him the respect and esteem of his contemporaries and the confidence of the public. He had no eminent rank as a trial lawyer, but was one whose integrity was without question and whose judgment



DAVID A. SCOTT



was a safe reliance. Moreover his aptitude in unraveling accounts—even the most intricate—was phenomenal; and this faculty, in combination with his judicial mind, his courteous manner and his keen sense of equity, made him an ideal Surrogate.

Mr. Scott held the office of Surrogate of the county for two terms (January, 1860, to January, 1866), and at their expiration entered into partnership with M. H. Hirschberg, under the firm name of Scott & Hirschberg, in which relation he remained until his death, devoting his attention especially to office work, including very largely the settlement of estates and references involving important and complicated questions. For the vocation of an advocate he had no marked aptitude.

Aside from his professional life Mr. Scott took an interest in the influences in society having for their object the elevation of his fellows. He was an active member of St. George's Episcopal Church, filling acceptably the post of Lay Reader when service in that capacity was required, and also that of Superintendent of the Sunday School. When death came to him it found him in the field promoting the success of the Mission of his Church, now the Church of the Good Shepherd. Next to his church he was a devotee of the ancient and honorable order of Free and Accepted Masons. His service as a Trustee of Common Schools from 1887 to the time of his death was of unquestionable advantage to the schools and to the public, and in private walks his charities were many.

Regarding Mr. Scott's life as a whole the evidence is cumulative that he wasted neither his powers or his opportunities for usefulness—that the mean goal, “thyself,” did not bound his vision or confine his hand—that the force of his example remains and will remain even though his name shall wholly perish. Of him it may be

said with truth that he was a loyal friend, a useful citizen, a genial companionable gentleman.

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### ABRAM S. CASSEDY

was born at Ramapo, Rockland County, N. Y., on November 29th, 1833. He graduated from the State Normal School in 1853, and after studying law with a Rockland County lawyer for a short time he came to Goshen and continued his legal studies with Wilkin & Gott at Goshen. In 1857 he was admitted to practice as an attorney and counsellor. For two years thereafter he was the Deputy County Clerk of this county. In 1859 he removed to the City of Newburgh and embarked in practice on his own account. His success here was marked from the first and he acquired so good a standing at the bar that in 1862 he was elected District Attorney—(on the Democratic ticket). He held that office until January 1st, 1866. This was immediately after the Civil War when the whole country was in an unsettled and disorderly condition.

At that time there was no Assistant District Attorney in this county and no stenographer to take grand jury minutes. Mr. Cassedy's official duties consequently demanded an amount of attention and labor that would have discouraged most men. He had to be before the grand jury nearly all day and at night until "some wee sma' hour" was hard at work preparing indictments. His faithful discharge of the duties of his office under such discouraging circumstances entitled him to much credit.

In 1880 he was elected Mayor of the City of Newburgh. This office he resigned after a few months—thus contradicting Andrew Jackson's assertion about office holders that "few die and



ABRAM S. CASSEDY



none resign." The two offices above mentioned were the most important ones ever held by Mr. Cassedy. His death occurred on April 29, 1896. For some ten or twelve years prior to his death he was in partnership with Charles F. Brown and the ability and trustworthiness of the members of the firm together with the continuing influence of the fame of John W. Brown resulted in bringing a heavy and profitable business to their office.

In 1885 the mortgage against the West Shore Railway—theretofore the New York, West Shore and Buffalo Railway—was foreclosed and Mr. Cassedy was appointed the referee to sell the property and to distribute the proceeds. The sale took place in the Court room of the Newburgh Court House and the property sold for twenty-two millions of dollars. These figures completely dazed the auctioneer who was a Newburgh man and not accustomed to "think in millions" and he kept announcing the bid as twenty-two thousand dollars until Chauncey M. Depew, the bidder, corrected him three times. In distributing the proceeds of this sale Mr. Cassedy drew one check for over a million dollars. This he had framed later on when it had gone through the bank and it still hangs in the office of his son, William F. Cassedy. Up to that time it was believed to be the largest amount covered by a single check drawn on any bank in Orange County—I think that is still true.

Mr. Cassedy left two sons one of whom is still living and is a prominent member of the Orange County Bar.



### HENRY BACON.

Born March 14, 1846 at Brooklyn, N. Y.

Died March 25, 1915.

In August, 1862, Mr. Bacon and I entered Union College on the same day,—he in the sopho-

more class of the classical course and I in the junior class of the scientific course.

The latter course at that time covered but three years and consequently the unfriendly relations which usually exist between the members of one class and those of the class next above or below their own was confined chiefly to the students in the classical course. The "scientific" sophomores were really freshmen or in other words had just begun their college career. Most of my own intimate acquaintances were in the class behind my own. I made Mr. Bacon's acquaintance very soon after we entered college and when, at the end of my junior year his roommate left college and he invited me to share his room I accepted with pleasure. We were "chums" during my senior year and our relations were very pleasant and friendly during all that time and afterwards as long as he lived.

Even at that early day everybody who came in contact with him was impressed by his ability and the soundness of his judgment. He was one of the youngest men in his class but one of the most mature. There was never anything of the "mollycoddle" about him. Self-reliant and courageous to a marked degree he was always prepared to give a reason for any theory he held and to maintain it against all comers. He was a good student, more inclined to "the humanities" than to mathematics, but good all around. His standing in his class was excellent and he graduated in the first rank.

At the time of his graduation I had been studying in Judge Gedney's office for a year amid most delightful surroundings and as I intended to leave Goshen in the course of a few weeks I wrote to Mr. Bacon advising him to become my successor in the office. This he did. Our stay at Goshen overlapped each other for two or three months and during that time we were "chums" again.



HENRY BACON



Mr. Bacon completed his studies in time to be examined at the "General Term" held at Brooklyn in December, 1866. He passed with flying colors but being under twenty-one years of age could not be sworn in until he attained his majority. Soon after his admission he took two important steps in his career,—he married and formed a business co-partnership—Miss Helen Brandreth of Ossining, N. Y., became his wife and Benjamin F. Duryea, of Goshen, N. Y., became his partner. Mr. Duryea was a well known lawyer in that part of the county and had been Surrogate of the county and County Judge. His ability as an office lawyer was recognized by all the lawyers in the county. Judge Gedney and Mr. Gott both stated to me that in their opinion he had the finest legal mind of any man then practicing at our bar. This partnership continued for several years under the firm name of Duryea & Bacon. Then Judge Duryea's son, Henry, was taken into the firm and it became Duryea, Bacon & Duryea. Later, when Judge Duryea died the firm name became Bacon & Duryea. Mr. Joseph Merritt and Mr. Philip Rorty subsequently became partners with Mr. Bacon—and that brings the history of his business connections down to the close of his life.

An incident which occurred while Mr. Bacon and I were fellow-students in Judge Gedney's office was thoroughly characteristic of him whether as boy or man. He had been "reading law" for about a month when one day a farmer from the Town of Warwick came into the office and asked for the Judge. He was out of town for several days. "Well," said the farmer, "perhaps you could answer the question I wanted to ask him." "Very likely," said Bacon; "what is it?" "Well," said the farmer, "I made a contract with a miller in our neighborhood to sell him my crop of wheat for a dollar and seventy-five cents a bushel and the price has gone up to a dollar and

eighty cents a bushel and I want to know if he can make me stand to that bargain."

Bacon asked him how much wheat there was and was told sixty bushels. Was any writing signed? No. Any part of the price paid? No. Any of the wheat delivered? Not a grain. Then he can't hold you said Bacon. "Then he won't get my wheat at that price," said the farmer and with a very cheerful look on his face he was leaving the office when Bacon halted him with the suggestion that he had better pay for the legal advice he had had. After considerable protest the farmer paid the five dollars that Bacon demanded and the latter remarked as he folded the bill up and put it in his pocketbook: "You can't expect anybody to do your dirty work for nothing." That farmer went home "a sadder and a wiser man."

Another incident which occurred in the office at about that time will bear narrating. Bacon was in the back office, I in the front one. It was quite early;—Judge Gedney not down yet. In those days a rough looking chap named S\_\_\_\_\_, was in the habit of coming to the office to interview the Judge. He was the wit and banterer of the Monroe Mountains but looked like anything but a quick-witted man. I knew by experience, something of the keenness and roughness of his wit so when he began a conversation with me with the remark, "You look as natural to me as a natural fool but I can't call you by name," I politely said, "My name is Anthony." Bacon had heard the fillip I got and was laughing boisterously in the back office. "Who's that in there," said S. \_\_\_\_\_. "Suppose you look in and make his acquaintance," said I. He proceeded to interview Bacon and asked him several questions,—to which he received very brief and gruff answers. Finally he began asking the names and residences of Bacon's parents and the latter suggested that S\_\_\_\_ seemed to have a good

deal of curiosity about his family. "No offence meant, stranger," said S. "I wanted to know about them because I realy think they must be mighty nice people." Bacon was placated and innocently asked, "Why?" "Well," said S., "if I had been half as cross and ugly as you be my parents would have knocked me in the head before I was six weeks old." The laugh that followed sweetened the day's work for Bacon and me and although S—— didn't even smile, I have no doubt he got a lot of satisfaction out of it.

Mr. Bacon's career after he was once fairly started in his professional work was one of continuous and marked success. His good, sound judgment, retentive memory, great diligence, clear "legal instinct," and extreme thoroughness in everything he did and in every detail of his work made him in a few years one the leaders of the bar of this county and of several of the counties adjoining this. His success was chiefly due to the thoroughness with which he prepared his cases. His purpose was to know all the facts—and all the law—bearing upon the case he was about to try. His knowledge of the basic principles of jurisprudence and of the leading cases was extensive and accurate and it was therefore comparatively easy for him to prepare for the trial of his cases as they arose. In presenting a case to the jury he was not particularly happy. He talked easily and to the point and was listened to with attention. His arguments always deserved and received a respectful hearing. But he was entirely destitute of that mysterious quality called "magnetism" which enables some speakers to be in close touch with their audiences even when they have less to say than Mr. Bacon usually had and say it less smoothly than he. Nevertheless he became the most prominent trial lawyer in the county. For many years he was the trial counsel for the Erie Railway Company in this county and, in Rock-

land and Sullivan Counties and did a large amount of work for that company in this section of the State.

His independence and self-reliance were always conspicuous features of his character. He attached no importance to differences of social standing or wealth. The only standards he recognized were mental ability and moral worth—and on this basis he treated everybody as he thought they deserved.

In 1886 and again in 1888, Mr. Bacon was elected on the Democratic ticket, the Representative in Congress from this district. He had however little taste for public office and not much aptitude for political finesse. He obtained an excellent standing in Congress and was recognized as a man of ability. He never held any other public office so far as I know.

While at Washington he and his family became intimately acquainted with Samuel J. Randall and with his family. Randall was then the Speaker of the House. A few years later, the first Mrs. Bacon having died, meantime, Mr. Bacon married Susan, a daughter of Mr. Randall. She survived him—as did also a daughter (by the first wife) who is now the wife of Doctor Brandreth Symonds.

One incident of Mr. Bacon's stay in Washington may be worth narrating here.

At that time J. C. Bancroft Davis was the reporter of the decisions of the United States Supreme Court. Having a fairly intimate acquaintance with Mr. Davis I wrote to him suggesting that I would appreciate any courtesies he might extend to Mr. Bacon. This resulted in a dinner at Mr. Davis' at which Mr. Bacon was one of the guests and Hon. L. Q. C. Lamar—then a Justice of the Supreme Court—was another. After dinner Lamar and Davis talked over the efforts made to bring about the recognition of the Confederacy by England. Lamar had been sent

to Russia in behalf of the Confederate States but had stopped at London and was doing his utmost to procure recognition for his government. Davis was then Secretary of the American Legation at London. The plots and counter-plots of that momentous contest were discussed fully and very freely by these two men in their after-dinner conversation and Mr. Bacon declared that he had never heard such interesting talk.



### WILLIAM VANAMEE

was born at Albany, N. Y., on January 9, 1847. He was the son of Doctor Simon A. and Anna Graham Vanamee. His parents removed to Kingston, N. Y., while he was a child,—that being the home of the original Vanamee—(or van Naame) ancestor, who settled there in 1687.

The subject of this sketch received his preparatory education at the Kingston Academy and at the hands of a private tutor.

His legal study was conducted in the office of Judge Groo at Middletown, beginning in 1866 and in May, 1868, he was examined at the General Term held at Poughkeepsie and was duly admitted. Thenceforth for many years his home and his office were in Middletown and there he built up a large and lucrative business. Later, seeking a wider field of practice, he removed to Newburgh and for a short time had a business connection in Brooklyn, N. Y., but continued to have his domicile in Newburgh, and there he died on May 7th, 1914. In 1886 he received the degree of M. A. from Hamilton College.

Although Mr. Vanamee and I practiced law side by side during the last fifteen or twenty years of his life and were on terms of intimate and friendly acquaintance I never felt that I

really understood him. There was a sort of indefinable aloofness about him which seemed to me to keep even his intimate friends at a distance; and yet he was friendly in his manner, warm in his greetings and seemingly sincere in his friendships. That he was a man of superior ability and of unusual culture was evident to everybody who saw anything of his work. He was unquestionably the best nisi prius lawyer resident in Middletown in his day. He tried a case well and summed it up with force and eloquence. Juries heard him with pleasure and whenever he spoke before a miscellaneous audience his remarks were listened to with close attention and spoken of afterwards in terms of admiration. It is not intended as any criticism of either his manner of speaking or of the substance of his addresses when I state that there did not seem to be the same spontaneity about his oratorical work that there was about that of most of the other prominent advocates at our bar. Gedney and Fullerton and Carr never made any preparation for their jury speeches. If Winfield prepared he concealed the fact very successfully. Mr. Vanamee gave the impression of having made careful preparation. His public utterances "smelled of the lamp." If reading maketh a full man, conversation a ready man and writing an exact man as Lord Bacon said was the case, Mr. Vanamee would give his hearers the impression of being a reading man,—as indeed he was; for if any man in the profession since Judge Gedney's time has been as much of a lover of good literature as Mr. Vanamee was the fact has escaped my attention. He read very widely and with keen discrimination. His addresses were illuminated with apt quotations and telling illustrations but I cannot say of them as Judge Brown does of Judge McKissock elsewhere in this book that they "came spontaneously and unbidden from his well-stored memory and glow-



WILLIAM VANAMEE



ing imagination, as the lightning breaks upon the distant horizon in the twilight of a summer evening." Rather they reminded one of Longfellow's lines:

"Thus at the flaming forge of Life  
Our fortunes must be wrought,  
Thus on its sounding anvil shaped  
Each burning deed and thought."

Nevertheless Mr. Vanamee was a strong and successful advocate and I am not prepared to say that he did not win as large a percentage of his cases as any of those lawyers did whose names I have mentioned and whose methods I have compared with his.

His literary style can be seen to advantage in the article entitled, "The Bench and Bar" in Headley's "History of Orange County" and I risk no contradictions when I say that he has presented a very dry and unpromising subject in a graceful and captivating way. We may be inclined to criticise it as too eulogistic of his fellow-lawyers—of few more so than of the writer of this sketch—but as to the charm with which it is put there can hardly be two opinions. That the various lawyers mentioned are extremely well spoken of is an indication of the feeling Mr. Vanamee really entertained concerning them. Those who knew him best assure me that he never uttered an unpleasant word about any fellow-lawyer but was actually filled with friendly regard and the kindest feelings towards them all. They speak too of his kindness of heart and sympathy for the unfortunate—a tribute of more worth than all the commendation that could be paid to him as an advocate.

Mr. Vanamee died at a comparatively early age. His health failed gradually—his physical not his mental strength—and his condition was such that for three or four years before he died he could do no professional work except at the

risk of his life. Had it not been for this, his reputation and standing as an attorney might have been even higher than they are.

He was twice married. His first wife was Miss Ostrom of Goshen. Of this marriage three children were born—two sons and a daughter,—the latter being now the wife of Percy V. D. Gott of Goshen. The sons, (named Talcott and Parker respectively) are living,—one a physician and the other a clergyman. Mr. Vanamee's second wife was Miss Davis—before her marriage. Of this marriage there were no children. She is still living.

#### LEWIS E. CARR.

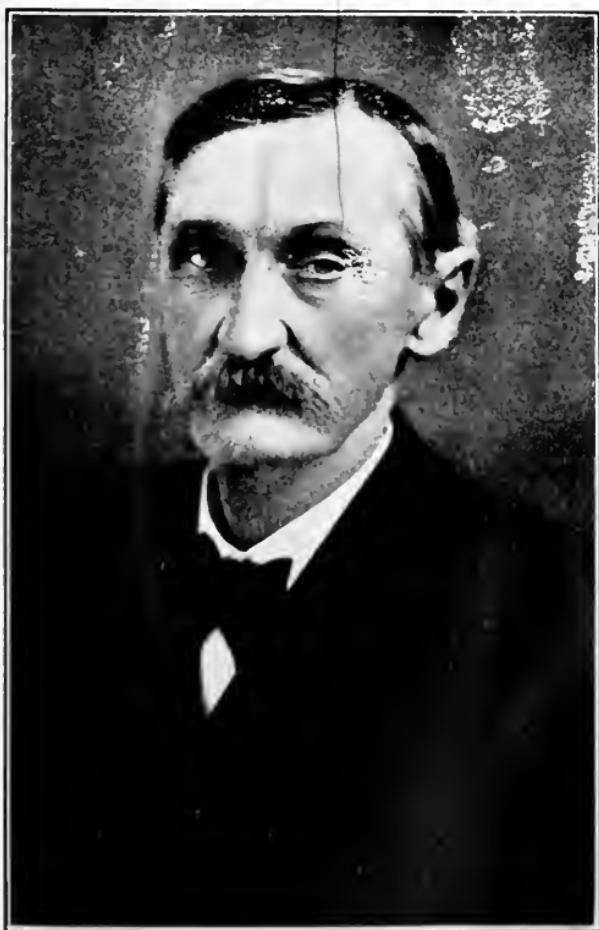
\*Mr. Carr was born at Salisbury, Herkimer County, N. Y., on March 10th, 1842. He was educated in the public schools and at the Fairfield Seminary. After leaving that institution he studied law at the Albany Law School and in 1864 was admitted to the Bar at Albany. Soon after that he settled at Port Jervis and began the practice of his profession.

In that vocation his rise to eminence was rapid. In 1871 he was elected District Attorney of the county; this office he held for one term. Meantime he had been appointed local counsel for the Erie Railway Company and he retained that position until he removed to Albany in 1893. There he became Resident Counsel for the Delaware & Hudson R. R. Company and that position he still holds and fills.

The amount of work done by Mr. Carr while he resided in this county would have killed most

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\* N. P.—No extended sketch of Mr. Carr is intended to be made here for reasons stated in the "Preamble" to this book.



LEWIS E. CARR



men and it is reported that he is still working as hard as ever; and yet, at the age of seventy-five years his mind seems as vigorous and active as it was in his prime and there is scarcely a gray hair in his head.

Mr. Carr has impressed me as one of the ablest men of my generation practicing at our bar and the most fluent speaker among them. He is moreover a truly eloquent man—for there is a wide difference between fluency and eloquence. Mr. Carr's ideas, thoughts, illustrations and arguments keep pace with his smooth and rapid flow of words so that what he says is not only well said but conveys a substantial chain of thoughts in an interesting and impressive way.

May it be a long time before anyone is called upon to write a sketch of him which treats him as a man of the past.

**A List of the County Judges, Surrogates  
and District Attorneys of the County  
Since the Year 1800**

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**COUNTY JUDGES.**

Nathan H. White	Benjamin F. Duryea
Samuel S. Seward	John J. Monell
Gilbert O. Fowler	— David F. Gedney
Horace W. Elliott	Thomas George
Goldsmith Denniston	— Stephen W. Fullerton
Allen M. Sherman	— Charles F. Brown
David W. Bate	John G. Wilkin
John G. Wilkin	John J. Beattie
— A. H. F. Seeger	

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**SPECIAL COUNTY JUDGES.**

John G. Wilkin	William J. Groo
Robert Proudfit, Jr.	Theron N. Little
Charles Borland	— Michael H. Hirschberg
James W. Taylor	Obadiah P. Howell
E. Gedney Van Duzer	Amos Van Etten
James W. Taylor	Ferdinand V. Sanford
George W. Green	Henry B. Fullerton
J. Hallock Drake	Frank Lybolt
James W. Taylor	Herbert B. Royce

## SURROGATES.

Edward Ely	Benjamin F. Duryea
Job Noble	James W. Fowler
Edward Ely	John J. McConnell
Wheeler Case	David A. Scott
David H. Tuthill	Gilbert O. Hulse
John B. Booth	Henry A. Wadsworth
George M. Grier	Roswell C. Coleman
Charles Borland	O. P. Howell
	John B. Swezey

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## SPECIAL SURROGATES.

Charles Borland	Daniel E. Pope
Frederick A. Hoyt	John P. Sears
John V. D. Benedict	George W. McElroy
Henry C. Duryea	John B. Swezey
— — — — Bush	Joseph M. Wilkin
	Elwood C. Smith

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## DISTRICT ATTORNEYS.

(Were not county officials until 1818).

Samuel R. Betts	Abram S. Cassedy
Henry G. Wisner	John H. Drake
Ogden Hoffman	Stephen W. Fullerton
Charles Borland	Lewis E. Carr
Isaac R. Van Duzer	Charles F. Brown
Samuel J. Wilkin	Walter C. Anthony
Charles Borland, Jr.	Russell T. Headley
Nathan Wescott	Michael H. Hirschberg
Hugh B. Bull	Abram V. N. Powelson
Charles H. Winfield	A. H. F. Seeger
David F. Gedney	Thomas C. Rogers
Charles C. McQuoid	J. D. Wilson, Jr.
	(Henry M. Hirschberg)

## OLD DAYS AND OLD WAYS

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As a sort of summing up of what has gone before I give here Mr. Graham's opinion regarding some of the lawyers mentioned in the earlier portion of this book. He writes:

"In your last letter you intimate that you would like to know my opinion as to the comparative merits of several of the members of the bar of Orange County. My estimate may be very far wrong, but I will give it nevertheless. In my judgment, the greatest lawyer who ever lived in Orange County was John Duer. I do not know whether he was born in Orange County, or not, but he practiced at Goshen for a good many years before going to New York City. He was associated with Benjamin F. Butler, afterward Attorney General and Secretary of War of the United States, and John C. Spencer, who afterward was Secretary of State of New York, and Secretary of the Treasury of the United States, in the Revision of 1830 and for no small share of that work he was responsible. Subsequently he was Judge and Chief Justice of the Superior Court of New York City, and at that time the Bench of that Court had no superior on this side of the Atlantic, and his judgments stood the test of time and critical examination.

"Next to him I would place John W. Brown (though born in Scotland) for breadth of learning and power of elucidating abstract principles. Next to him I think stood William Fullerton for power of intellect, entire self-control and inciseness in examination of witnesses, and in presenting his case to the jury or the Court.

Yet I am told that for breadth of intellect and legal knowledge, and clearness of reasoning he was surpassed by his brother, Stephen W. Fullerton; but 'Whit' (as he was called in my time) had not won his spurs when I came out West.

"In reputation for brilliancy of argument, for eloquence of speech and flood of illustration, according to their reputation as it reached my ears, Ogden Hoffman, Isaac R. Van Duzer and Samuel J. Wilkin surpassed all others. For ingenuity in marshaling the facts, for vigor of expression and versatility in the management of a case, Judge McKissock. For polish of manner and speech and careful preservation of the rights of his client, Judge Monell. I frequently heard Winfield, but never heard Gedney make an address of any kind, but speaking from knowledge of one, and the reputation of the other, I would say that as all around lawyers and advocates they had few superiors. I should say that in power of reasoning and force of logic they were inferior to either of the Fullertons, but of a more captivating manner in presenting their cases to a jury or miscellaneous audience, over whom their influence was deservedly great.

"My estimate may be largely erroneous but such as it is you have it.

"I often heard Judge Booth speak of Henry G. Wisner, but I can not give you anything that would be of any assistance to you."

In my judgment Mr. Graham is about right.



Judge Barnard was once questioned as to the comparative standing of the lawyers of Dutchess County and Orange, and he replied:

"We have no man in Dutchess County who can try a case as 'Whit' Fullerton can. There is no man in Orange County who can sum up a

case as Allard Anthony can. But Judge Gedney and Mr. Gott make a team that cannot be equalled in Dutchess or anywhere in this judicial district in my opinion." (N. B.—The district then included all of Long Island).

Judge Barnard had a very high opinion of Fullerton's ability as a trial lawyer. He said several times that "Whit" Fullerton and "Matt" Carpenter—(later a United States Senator from Wisconsin)—were the best cross-examiners he had ever seen. Carpenter was counsel in a very important murder case which was tried in Dutchess County in or about the year 1865 and he made a very favorable impression upon the entire Bar of that county.

The Fullertons—William and "Whit"—were probably the most skillful trial lawyers and certainly the best cross-examiners we have ever had in this county. Their methods were very different but equally effective. William was keen, quick and somewhat aggressive and woe betide the witness who began a game of repartee with him. Whittaker was more deliberate, more cautious and more considerate of the witness. He often said that unless the lawyer feels absolutely sure that he can break a witness completely, he must never seem to be harsh with him, for the sympathy of the jury is against the lawyer and with the witness all the time until the latter is clearly shown to be lying. Another of his rules was not to cross-examine a witness at all unless you had a distinct purpose in view and a definite plan for accomplishing it. William Fullerton used to say that he thought he could catch any witness who was falsifying, provided he could examine him long enough. In this connection he said that he cross-examined the leading witness in a very important will case— involving half a million dollars—for two whole days without tripping her up; but he added: "I got her the third day; caught her on arithmetic.

She had sworn to her age early in her cross-examination. On the third day I asked her what her employment was at that time and when she went to work in that position; then I asked her about outside matters for a while so that she would not become suspicious; then I questioned her about what she was doing previous to the latest employment and how long she was in that place and then we talked about other matters again; and so I led her backward step by step until I could call her attention to the fact that she must have been *only four years old* when she was present at the execution of the will in question about which she had testified very fully and minutely. Then she went all to pieces. She had lied about her age and also about the execution of the will."

■■■■■

One of the questions about the lawyer of former days which will naturally occur to a lawyer of this present time is "what income did his business yield?"

I have excellent reasons for thinking that no lawyer in the county made five thousand dollars per year, prior to the Civil War. During that war some of them perhaps averaged that amount—but they were few and far between. There was an income tax during the later years of that war, and the incomes reported throughout the county were published in some of our newspapers. They make what Horace Greeley used to call "mighty interesting reading" now.

Making all due allowances for exemptions it would seem that there was but one practicing lawyer in Newburgh, and not one elsewhere in the county, who reported an income of five thousand dollars by the report made in August, 1865, and the one whose income exceeded that

figure doubtless derived a considerable part of it as interest on his investments.

It must be remembered that business expenses were very trifling then. Office rent, stenographers, telephones, books and various incidentals were then either very small or actually nonexistent. I doubt if there were half a dozen lawyers in the county who employed any paid clerical help about their offices, fifty years ago. Living expenses also were very much less than they are now. It is probably a fair proposition to say that any given income then was worth fully as much as one twice as large is today.

The charges for legal services increased somewhat during the Civil War,—but not much; and the "taxable costs" in litigated cases have not been increased since 1848 to any appreciable extent. The charges which lawyers make against their clients in these days are doubtless decidedly larger than they were formerly—but it is much more satisfactory to "live off of the enemy's country" as far as possible. The lawyers as a rule attached less importance to the pecuniary end of their business forty or fifty years ago than they do now. Gedney had no account books; Fullerton kept no complete accounts.



In the old days there was far more practical joking among the lawyers than there has been of late years. They seemed to have more time for it then than they have now. Much of it centered about "Whit" Fullerton. He and all his brothers were full of a spirit of mischief. One incident "Whit" used to relate with great glee. One day his father said to William, "Go over to neighbor Smith's and ask him if he will lend me his wheelbarrow."

After an hour or so William returned and

reported to his father: "Yes, sir! He says he'll lend it to you."

On another occasion Mr. Fullerton, the father, was mending a dam on his farm. The material needed was dug out of a bank on one side of the stream and loaded in a cart and then hauled across the half empty mill pond and used at the farther end of the dam and race. William was driving the oxen and the "old gentleman" and "Whit" were helping. They walked behind the cart until they came to the edge of the pond. Then they would step up on the hind end of the cart and ride across dry shod. Finally on one of the return trips William could not resist the temptation any longer. He stooped down and unloosed the pin,—the cart tipped up,—and the two passengers at its rear were spilled off into a puddle of very muddy water a couple of feet deep. Of course William got a thrashing but that he expected. The fun fully repaid him.

I saw more of this spirit of practical fun in "Whit" than I did in his brothers. One instance recurs to my memory.

"Whit" and Judge Monell were in the latter's private office adjusting some business matters of importance when a pompous individual entered whose white cravat indicated his claim to clerical standing. Monell had seen him or heard of him before and at once recognized him as a solicitor of contributions for some charity or other. The caller asked whether Judge Monell was in. The Judge, thinking it a good chance to put a joke over on Fullerton, waved his hand towards the latter and said: "That is Judge Monell." No slightest change of expression passed over Fullerton's face. He listened patiently to the caller's story while Monell sat by enjoying the situation. But a change "came o'er the spirit of his dreams" when Fullerton asked to see the caller's subscription book and with great deliberation wrote in it: "John J.

Monell, \$10;" quietly remarking, "I shall have to ask you to call a little later for the money—I haven't the precise amount by me at present." Needless to say that little joke cost Monell ten dollars.

It was very difficult to corner Fullerton or to get the better of him in an encounter of wits. In an action which was on trial before Carr as referee I was a party; Fullerton was my attorney; Brewster—(E. A.)—and Brown—(Charles F., afterwards 'Judge Brown')—were opposed. I had invested some money in a woolen mill and was likely to lose some of it. Fullerton had lost heavily not very long before in a patent hay press—(He *always* lost when he speculated and usually when he invested). Brewster had a lot of money tied up in cemetery stock which paid no dividend and Brown was largely interested in a plaster mill which just then was giving him considerable trouble and no profits. Brown started the skirmish by saying of my investment that he supposed it was all right but it seemed to him a blamed queer thing for a lawyer to invest his money in a woolen mill.

Fullerton's retort came like a flash, "No queerer and no more risky than a plaster mill." Then Brewster took a shot at Fullerton, remarking, "Either of them is as safe as a hay press." Again the retort came instantly, "Any of the three is better than a bone yard."

John Kerr who was attorney for some of the parties said: "I think I have no remarks to make." It was a particularly neat specimen of repartee—and Fullerton was full of that sort of thing.

His neatest and most famous practical joke resulted in a Newburgh Lothario making a "date" with his own wife under the impression that it was with another woman. A very worthy woman came to Fullerton's office and showed him a particularly ardent letter which she had

received from a married man. She was furious and wanted the writer of the letter sued at once. Fullerton dissuaded her but said that if she would follow his instructions implicitly she should have complete revenge. At his dictation she wrote a letter and mailed it to the Lothario saying among many other things that she was planning to go to the city on the barge \* \* \* on such a night and would try to secure stateroom Number 4, and if there was a gentle tap at the door of that stateroom at precisely 11 o'clock p. m., the door would be opened,—though the room might be in darkness—and no violent effort would be made to keep him out. Meantime Fullerton sent for the Lothario's wife, who had consulted him several times about securing a divorce from her husband.

The situation was explained to her—the name of the lady not being mentioned—and she cheerfully consented to take the trip to New York on the appointed night and carry out her part of the play. At that time the barge in question was commanded by a near-relative of Fullerton's and he had no difficulty in securing stateroom No. 4 for the night he wished.

The rest of the story will readily suggest itself to anybody who has read thus far. The plan worked out precisely as Fullerton had designed. It will be "relevant" for me to add that Mrs. Lothario never had occasion afterwards to consult Fullerton, or anybody else, about procuring a divorce from her husband.

One case which came to the office soon after I entered it as a student has always been prominent in my memory. One day I saw a young man—perhaps between twenty-five and thirty years old—come into the outer office. He was the incarnation of self-satisfaction;—as "cockey" as a drum major. In that mood he passed through the outer office, entered Fullerton's private room, and the door was closed.

Half an hour or so later he came out and I have never seen, in all my life, so great a change wrought in any other person in so short a time. He was in a state bordering on collapse. It was a good while after that before Fullerton told me what had caused the change. It seems that a few months before this interview a young man residing not far from Newburgh had gone out alone gunning. A few hours later his dead body was found lying in a roadway in the woods and near him was his gun, one barrel of which had been discharged and the load had entered the hunter's head from behind causing instant death. Shortly after his burial his wife's brother began to talk to his sister, (the widow), about the money due to him from her husband, for which he claimed that he held promissory notes made by the husband. She felt sure something was wrong and came to Fullerton for counsel. He wrote to the claimant asking him to call at the office and see what arrangement, if any, could be made in regard to his claims against his brother-in-law's estate and to be sure to bring with him all notes or other papers in support of his claim. It was in response to that invitation that he entered the office when I first saw him.

When the door closed behind him he was given a seat facing the window which was back of Mr. Fullerton and the latter could see every movement of his countenance. The notes—three in number—were produced. They aggregated several hundred dollars. Fullerton questioned the claimant about his business transactions with the decedent and the consideration for the notes and the explanation became somewhat confused and indefinite. Then the circumstances connected with the death of the deceased were asked about and the tragedy of the event was shown mercilessly by means of the questions asked. Finally Fullerton said, "You think your

brother-in-law was carrying his gun over his shoulder with the butt end behind; that it slipped out of his hand and when it struck the ground one barrel was discharged and the shot entering the head of decedent caused his death instantly?" This theory was insisted on very positively under skillful examination; the claimant stated that the accident could not be explained on any other theory. Then Fullerton asked him if he didn't think it passing strange that the charge of shot had passed downward through the brain and not upward. This fact was shown by the Coroner's minutes of which Fullerton had a copy.

Fullerton then inquired about the making of the notes and the claimant stated that he himself wrote the body of the documents; that his brother-in-law signed them and immediately delivered them to him and he had held them ever since. He further said that his brother-in-law had placed the revenue stamps on the notes; that he did it with his own hands before delivering the notes to claimant and cancelled them by writing his initials on them.

"Precisely as they are now?" "Yes." "You are absolutely sure of this?" "Yes." By this time the claimant was very badly demoralized—and his overthrow was completed when Fullerton held the notes up in front of him and said, "Don't you think that your brother-in-law was a very far-sighted man to put revenue stamps on these notes nearly three months before the law required notes to be stamped?" The claimant went all to pieces. The notes were marked "surrendered and cancelled" and he managed to sign his name to that statement and then he made his way out of the office as best he could. Fullerton added when he told me the story, "I believe I could have convicted him of murder, but his sister would not give her consent."

Mr. Fullerton's office table was always covered

with bundles of papers and dozens of letters but he disliked to have them touched or re-arranged. One day when he was out of town I straightened out the litter on his desk; the drawers were empty so I distributed the rubbish among them in alphabetical order. When he returned and saw what an improvement (?) had been made there was not the slightest change in his expression. A little later he called me and asked "Where are the papers in —— against ——?"

I showed him the proper drawer and explained that the arrangement was strictly alphabetical, the first drawers having the early letters of the alphabet; the second some later letters and so throughout.

Presently another batch of papers was asked for. I produced it from the proper drawer, and it,—like the former batch— was restored to its place on the top of the flat desk—and Fullerton, without the slightest change of expression on his face, remarked, "No doubt your intentions were good, Anthony; the trouble is you had too damned many of them."

Ever since that day I always have tried to avoid "butting in."

One of the famous cases of forty years ago was that of —— vs. ——.

The action was based on four promissory notes, each for several hundred dollars. The body of the instruments had been written by the plaintiff who claimed that the signature was that of the defendant. Fullerton borrowed the original instruments and succeeded in having them imitated so perfectly in every particular that we could only tell the copies from the originals by means of a minute pin hole which we made in each of the genuine notes. The cashiers of our several city banks swore unhesitatingly to the genuineness of the signature on the copies. Finally the plaintiff himself swore that the body of the copies was written by him

and that the documents were signed by the defendant in his presence. At this point he became a little suspicious and remarked, "there has been a lot of talk about forgery in this case; let me look at them closer." He took them up close to the window and examined them minutely and then said again that he himself wrote the body of each note and the defendant signed each one; that he was absolutely positive as to these facts. Then Fullerton handed out the genuine notes and quietly asked, "Well, how about these?" The plaintiff was completely non-plussed. The papers became mixed in his hand and *he* could not tell one from another. Turning to Fullerton he exclaimed, "What kind of a damned man are you, anyhow?" The plaintiff succeeded in the action but there was nobody in our local banks for several years after that who could qualify as an expert on handwriting and bear a cross-examination.

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Another law suit which made an intense but transient sensation in Newburgh in the "old days" was spoken of as the "bouquet case." One Lee, a queer chap, was deeply interested in a young lady who lived on Newburgh's chief residential street. He decided to serenade her and took pains to let her know of his purpose and when he intended to carry it out. He also announced his intention to some of his young men friends. This information came to the ears of A., who was an inveterate joker, and he, on the appointed evening, chartered a hand organ grinder and piloted him to the young lady's house. Here the organ was played vigorously and A., having purposely clothed himself to resemble Lee as much as possible, marched up and down underneath her window. Of course the young woman had provided herself with an

elegant bouquet and although she thought a "serenade" by a hand organ was a very strange performance still as nobody ever knew what queer thing to expect from Lee she threw out the bouquet,—which A. picked up and with many profound bows and wafted kisses marched away, accompanied by the organ grinder.

Very shortly afterwards Lee appeared on the scene with three or four musicians and the real serenade began. But the young lady had no more bouquets to bestow and being a good deal mystified by this second serenade paid no attention to it.

A few days later Lee learned the facts of the case and sued A. in justice's court for the value of the bouquet. The crowd attending the trial soon outgrew the justice's office and an evening session was held in the Court House. Here the fun grew fast and furious. Lee was in dead earnest. He was one of the sort who can never see a joke, but everybody else in the crowded room was convulsed with laughter. Finally, after a solemn argument by Lee, who by the bye was a law-student, and a humorous speech by A's attorney, the case went to the jury who brought in this verdict: "We find no cause of action and we recommend the plaintiff to the mercy of the Court and community."

Having told the foregoing story somewhat at Lee's expense it is no more than fair for me to show another side of his nature. He wrote and published quite a bit of very fair prose and one little poem which seems to me so good that I give it complete.

His father was a clergyman and served for a number of years as pastor of a church at Montgomery. Some time after his death a lady, a member of his congregation, gave the church a pulpit Bible in memory of the dead pastor and young Lee, the law student, sent her the following:

## LINES TO A LADY

On the presentation of a Pulpit Bible to the  
Reformed Dutch Church of Montgomery,  
September 30th, 1858.

Honored in the ancient Temple were the gifts  
of Sheba's queen;  
Grander yet the Magi's offerings to the lowly  
Nazarene.  
Sheba's crown is dust and ashes, no one knows  
the Magi's grave;  
But the Lord has not forgotten who they were  
or what they gave.

Heaven's altar needs no incense, and the finest  
gold is dim  
In the presence of the glory ever overshadowing  
Him;  
But the record has been written that their mem-  
ory should live,  
For the spirit of the givers consecrates the  
things they give.

In the grave yard sleeps the pastor by the church  
he loved so well,  
But the Word of God abideth, like a deathless  
Evangel,—  
And that Pulpit Bible preaches, while the pas-  
tor's clearer eyes  
See its mysteries unfolded in the light of  
Paradise.

JOHN WILTSIE LEE.

If anybody connected in any way with the  
legal profession in this county has ever produced  
anything which came as near as those lines do  
to being poetry, the writer's attention has not  
been called to it.

Something has been said in an earlier part of this book about a case in which a man named Price was a witness. In some respects the trial of that case presented features of unusual interest, and one of the most dramatic situations that ever occurred in our Court House arose on that trial.

A man whom I will call X—— was on trial under an indictment for murder in the first degree. The victim was a woman with whom he had been on friendly terms and with whom he had been seen walking along a lonesome road one evening. The next morning her body was found in a gully at the side of that road. She had been killed by some one who had caught up a stone from the roadside and struck her with it on the head. She was somewhat advanced in pregnancy and this fact was supposed to have led to her taking off. The accused, an unmarried man, made his home with a near-relative who kept a hotel in a neighboring village. The strongest testimony against him was given by a woman who lived nearly opposite this hotel, who swore that between one and two o'clock of the night the murder was committed she was in bed but awake and heard some persons going up the stoop of the hotel. She thereupon looked out of her bedroom window and saw a man who in figure and size resembled the accused, and a woman who looked the size of the victim, going up the hotel stoop; that she heard knocking at the hotel door and conversation between somebody inside the hotel and the man outside; that the hotel door was then opened and the man and the woman entered. This testimony with much else less important made the situation look dark for the accused. In order to meet it the Mr. Price, already mentioned, went to the residence of this witness, stretched himself upon the bed in the same place the witness had sworn she occupied, and found,—or testified that he

found—that he could not see the stoop of the hotel to any such extent as the woman had sworn that she saw it. This merely shows how much more a woman can see when her curiosity is aroused and her suspicions excited than a man can see under ordinary circumstances—for a man and a woman did go up that stoop and enter that hotel on the night in question at the hour and in the manner testified to by the woman.

It was years afterwards that the facts came to my knowledge. The man who was mistaken for the accused then told me the circumstances. At the time of the trial of X—the man I have mentioned was a Justice of the Peace and by pure accident was at Goshen and went to the Court House merely to hear a murder case tried. It happened, however, that one of the Justices of Sessions was absent that morning and the Presiding Justice (Barnard) as he was required by law to do, appointed a Justice of the Peace to act in place of the absentee. His choice fell upon the man of whom I have spoken who, without the slightest suspicion of what was coming, took his seat on the Bench. The very first witness called was this woman who had seen the suspicious midnight visit to the hotel. And as this acting Justice of Sessions told me the story he said, "There I sat all that forenoon literally sweating blood—for *I was the man who went up that stoop that night.* I had started out with a lady friend on a lark and we had been detained by a series of accidents until long after midnight.

I could have cleared the whole thing up in five minutes but I would have ruined the woman's reputation. It was worse than any nightmare I ever had—but I decided to let the man take his chances rather than bring about the certain destruction of the woman's good name. The hotelkeeper stood true to her, too." Fortunately, the accused was not convicted.

Judge Gedney summed up for the People in that case and portions of his speech are still remembered by people who heard it. His peroration was particularly impressive. After alluding very delicately to the fact that the victim was pregnant he closed with these lines from Byron's poem, "Don Juan"—(Canto IV, Verse XXX):

"She died, but not alone: she held within  
A second principle of life, which might  
Have dawned, a fair and sinless child of sin,  
But closed its little being without light."\*

As used by Judge Gedney with his perfect enunciation and deep, clear, rich voice it made a profound impression. The accused was thus charged with a double murder—one of his victims being innocent beyond all question.

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Fifty years ago, or thereabouts, there was a trio of lawyers whose offices—(and homes)—were at Port Jervis but whose field of practice extended over a considerable section of this State and a portion of northeastern Pennsylvania. They are hardly entitled to be classed among the prominent lawyers of this county but were all keen, shrewd, adroit case triers with more natural ability than legal attainments.

They were Oliver Young, Thomas J. Lyon and James M. Allerton. Portraits of the two named first above can be found in Ruttenber and Clark's History of Orange County and for that reason it is not deemed necessary to reproduce them here. As to the third of the group—Allerton—no portrait is known by the writer to exist, and as he became the more widely known of the

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\* (N. B. I owe the location of this quotation to my friend, Judge Hirschberg).

three, owing to his "forensic effort" which is referred to later in this book somewhat at length it is only fair that his likeness shall be included here in order that the lawyers of Orange County in years to come may see the portrait of the only man among us all who ever made an address to a jury which was "heard round the world." Allerton and Lyon not only tried a case well, but they summed it up with force and ingenuity; they were also clever as political "stump" speakers. Young was a more quiet and sedate man than the others but seemed to me to know rather more law than they.

To afford a glimpse of Lyon engaged in the trial of a case in the Supreme Court nearly fifty years ago, let me give this: A witness opposed to his client had produced a certificate of good character, signed by some well known man, and when Lyon came to discuss his testimony he said: "When you see a man going about the country with a certificate of good character in his pocket you can make up your mind that he expects to have to use it. Nobody goes armed and equipped with that kind of ammunition unless he thinks somebody is going to accuse him of being a thief. You jurors have no such certificates in your pockets, neither has his Honor, the Judge, and even we poor lawyers, who are accused of lots of things that we are not guilty of, we have no such documents in our possession."

Lyon was a Methodist minister before he studied law and had some educational advantages which the others of this trio lacked. As a result of this he acquired more influence and a better standing politically so that he represented his district in the Assembly for two terms, in 1869 and in 1870.

Of the three men here mentioned Allerton was the most interesting. He was unique. In appearance, in manner, in gesture he was odd. He

was too much of a man to be an object of ridicule or to be laughed at,—except when he intended to make you laugh; then he was simply irresistible; his mock seriousness and gravity and his seeming earnestness and sincerity were too funny for words. He surpassed himself when responding to a toast at a dinner which Thomas George gave to the lawyers of the county immediately after his election to the office of County Judge in 1867. Fullerton—S. W.—was the toastmaster and he induced Allerton to respond to the sentiment, "First Impressions of the Orange County Bar," and the way in which he did it was imitable. He said that his first impressions of the lawyers of the county were unfavorable. That one beautiful spring morning, years before, he had seen two "fellers" wandering about a "medder" in the neighborhood of a toll-gate which he then kept,—and which then kept him after a pretty poor fashion—up on the Sparrowbush Turnpike. One of them was a big, stout, curly-haired "feller"—(here he looked hard at Winfield)—and the other was a little "slimpsy" hatchet-faced "chap" (here he turned his attention to Gedney). At first he supposed that they were engineers surveying a route for some new road or a branch of the railroad as they were all the time dropping strings into the ponds and pools down along the "medder," trying to find how deep the water was he supposed. It never entered his head to think they were fishing for to his own personal knowledge there hadn't been a fish caught in any of those waters in more than twenty years past. But he was astonished to learn soon afterwards that they were fishing and that they were two of the most prominent lawyers of this county. And he added, "I naturally started out with a mighty poor 'first impression of the Orange County bar,'" and again he looked hard at Winfield and Gedney. By this time his audience was convulsed with laughter, Winfield and Gedney as much so as the



JAMES M. ALLERTON



rest, but he went on with a solemn face, about as follows:

"Not long after that a 'feller' came up to my place who said he was the deputy sheriff and he gave me a very urgent invitation to come down to Newburgh and attend court a week or two later. I accepted the invitation—'done' it in writing, and two of my friends wagered a hundred and fifty dollars that I would keep my word. So when I was due at Newburgh of a Monday morning at nine o'clock I was bound to be there on time, I concluded to foot it down as the walking was good and fare on the railroad a 'leetie' expensive. I therefore started Sunday morning and that day covered the distance to Washingtonville where I spent the night. The next morning I started good and early and when it come nine o'clock was sitting in the court room and was about the only human being in sight. Having nothing else to do I looked the place over carefully and was a good deal puzzled by an inscription over the door. For a good while I could not make any sense at all out of it but finally I thought I had made it out and I wrote it down in my little book, which I've carried ever 'sen' I was a boy." Here he took from his coat-pocket a little well-worn memorandum book and read,—or pretended to read from it, as follows: "Post ignorant Irish jurors to eat East River clams scientifically."\* Shouts of laughter greeted this sally but Allerton's face was without a smile and he proceeded to distribute several other good hits and finally closed with something like this: "As I said awhile ago my first impressions of the Orange County lawyers were rather unfavorable; but since I became one of their number they have all treated me always with so much kindness and consideration that my opinion of them has improved from year to year until I have come to consider

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\* *Potius ignorantia juris intelligentia est, quam scientia.*

them now a lot of blame good fellers "jintly and severally'." As may be imagined the applause was loud and long.

Allerton's address to the jury in his own defence when he was on trial for assault and battery was doubtless more widely read than any other speech delivered before an Orange County jury.

It is said to have been printed as a specimen of Yankee wit in the newspapers wherever the English language is spoken. That is one reason why it is printed here entire. Another reason is that it is even now very hard to find a copy of it and before many years it would be entirely lost to the Orange County lawyers. It was Allerton's success on this trial that led him to study law.

"The following amusing case was tried at the recent term of the Orange County Court and we find it reported in the Newburgh Telegraph:

The People against James Allington.

District Attorney for People.

Prisoner in Person.

This was one of the most amusing trials ever witnessed by bench or jury in this community. The prisoner was indicted for an assault and battery upon a man by the name of Dodder.

It seems that a plank-road had just been laid in the Town of Minisink running through the lands of said Dodder, and that Allington is the toll gatherer, and that the gate house is built on, or adjoining the lands of Dodder. The other facts will appear in evidence.

The case was duly opened by the District Attorney when his Honor, the Judge, noticed the defendant sitting within the bar, with pencil in hand, ready to take down evidence, without counsel.

"Have you no counsel, Mr. Allington?" inquired the Judge.

"No, sir."

"There are plenty of gentlemen around you who would be willing to assist you."

"Well, Your Honor, I have feed one and engaged another, and they both turn up missing, and therefore I have concluded to try the case myself."

"Very well, sir."

The District Attorney, after stating the case to the jury, called the complainant, Mr. Dodder, upon the stand, who testified as follows:

"I know the defendant; he is a neighbor of mine. I was driving his cows off my land when he came out upon the road and stoned me. He sent as many as a dozen at me and the last one struck me upon the back of my neck. It hurt me considerably; not very badly however, as the rim of my hat hung down and it and my coat collar prevented."

"You may examine him now, Mr. Allington," said the District Attorney.

All eyes were now turned upon the defendant. There he sat, busily engaged in taking notes. A little, short, red-headed Yankee, with his feet resting on the lower round of the chair and his body bent forward at an angle of forty-five degrees. At that remark he snapped his head back like a blade in a jack-knife, his eyes twinkled, and in a shrill, loud voice he commenced:

"Have you been on good terms with the defendant,—I mean me, Mr. Dodder?"

Dodder hesitated.

"Come, Mr. Dodder, have we been on good terms?"

"I can't say," replied Dodder.

"Well recollect, Mr. Dodder, that you must say."

"Say yes or no," interposed his Honor.

"Yes, or no," responded the defendant.

"I can't say that we are on speaking terms," answered Dodder.

"Well, Mr. Dodder, you say that I struck you

with a stone. Will you please state to the jury whether it was the first stone that struck you?"

"No, sir."

"Did it not go fifteen feet to the right?"

"About that."

"Well, was it the second?"

"No, sir."

"Did not that go three feet over your head?"

"Yes, sir."

"Were you not running after my cow with a stake,—sharpened at one end? And did you not knock her down? And was it not because you would not stop that I sent the other stone at you?"

"Well, sir, I must explain."

"None of your rigmaroles here, Mr. Dodder. No explanations, sir,—yes, or no."

"I can't answer."

"You must answer. Come, sir, yes, or no."

"It wasn't a stake, it was a stick."

"Yes, two and one-half inches at the butt and twelve feet long."

"No, sir, one inch across and tapering to the end."

"You knocked the cow down, didn't you?"

"I struck at her,—can't say I struck her."

"Didn't she fall?"

"Can't say."

"Well, Mr. Dodder, you were chasing her were you not?"

"I was in the road, sir, and she was on the side."

"Was it icy?"

"Yes."

"Snow deep?"

"Yes."

"Now will you say on your oath, Mr. Dodder, that you did not strike her?"

(Witness hesitating)—"I will not be positive."

"Well, Mr. Dodder, were you coming toward me?"

"Yes, sir."

"You was coming up the road and I was going down?"

"Yes, sir."

"You did not run back at all, did you?"

"No, sir."

"You are sure you did not look or go back, are you?"

"Certainly I am."

"Are you as positive of that as you are of all the rest you have sworn to?"

"I am, sir."

"Well, sir, will you please to inform this jury and myself how that stone came to strike you on the *back of the neck?*"

Witness was evidently non-plussed and a roar of laughter burst from bench, bar and jury, as well as the spectators.

"I am not done with you yet," exclaimed the defendant as Mr. Dodder seemed rather uneasy and inclined to vacate the chair.

"Whose house do I live in, Mr. Dodder?"

"I consider it mine."

"Did you serve a notice on me not to use the rooms, the garret or the cellar when I was moving in it?"

"Yes, sir."

"Was there anything else to use, sir?"

"No, sir."

"Who built the house?"

"The Plank Road Company."

"In whose possession is it, Mr. Dodder?"

"Plank Road Company."

"How did you come to say that the house was yours when the Company have it in possession and built it?"

Another burst of laughter followed this question and poor Dodder looked as if he was sitting upon a hetchel. Dodder gave no reply.

"Now, Mr. Dodder, have you not been trying to get me out of that house that you might get your son in my place? And have you not been

to the directors? and have you not applied to them for your son? and have you not told them things derogatory to my character? None of your long preambles, Mr. Dodder, you know it is so, and I am going to prove it, too. Yes or no?"

"I can't answer; I must explain."

"No explanation, sir,—yes or no."

"No."

"Did you not go to three of the directors?"

"Yes."

"Did you not order a window put in the cellar of the house, when building, and say you wanted it there for your son's accommodation?"

"I might have done it."

"Did you not get a warrant out for me before I was bound over to appear here?

"Yes."

"Did you not then swear that I had only assaulted you by throwing stones but did not hit you?"

Dodder was completely staggered again,—he changed all manner of colors and moved about very uneasily in his chair.

"Come, Mr. Dodder, answer," exclaimed the defendant.

"I can't remember."

"Yes, you do,—come, think, did you then swear I had hit you at all, sir?"

"I might not."

"How comes it that you remember it now, three months after, and could not then?"

This was too much for poor Dodder. He looked appealingly around for relief. Nothing met his gaze but a room convulsed with laughter. His legs seemed to be under magnetic influence and in great desire to try their powers of locomotion. At last the defendant told him to go. "That will do, Mr. Dodder,—I guess we are through with you for the present,—and off he shot as if death was behind him, while the whole

bar fairly screamed as he made awful strides down the aisle, and the court buried their faces in their handkerchiefs and shook convulsively.

Dodder No. 2 was then called,—son of the old Dodder,—who testified as follows:

“I was in the house,—heard a noise,—saw father driving cows; saw defendant come out of his house and throw stones. I ran out, and a hill was between me and them, and when I got up all was over. Saw defendant throw three stones; did not see any strike.”

Cross-examined by defendant:

“You were in the house you say?”

“Yes.”

“Is there not a hill twenty feet high between your house and where I was?”

“About that.”

“How many stone-walls also? About four?”

“About that.”

“How many plank fences, or slab fences? Two?”

“Only one, I think.”

“Well, sir, how could you see through four stone-walls, one slab fence, and a hill twenty feet high? That will do, sir, you can go.”

And, without waiting to reply, off went Dodder No. 2.

District Attorney on the part of the people here rested.

The defendant then, with all the gravity becoming such an important occasion, untwisted his legs from the rounds of the chair, and with more than usual dignity walked out in front of the jury and offered his defence as follows:

“If you please, Your Honor, and Gentlemen of the Jury—I am a green hand at this 'ere bizziness. I am ashamed that such a little, small concern, should ever come before an Orange County jury. It was not my wish I am sure. I was taken up once before and then he only swore to an assault; but three months' thinking has put the battery

to it. I acknowledge the assault, but I am justified, for he was assaulting my cow. He has tried to pick a quarrel with me ever since I went to the gate. He stones my cows and my chickens and I can't stand it. I threw the stones, I admit it,—first fifteen feet to the right, then over his head, and when I saw the cow fall as he knocked her down then I did shave him, but I didn't hit him,—and that ain't all, I'll prove it; and I ask you farmers if you wouldn't do the same thing? I can prove that he knocked her down by my brother."

Defendant's brother was then called and stated that it was Sunday when the occurrence happened; saw complainant, Dodder, running after and striking at defendant's cows; saw him strike and one fall; can't say he struck her; defendant ran out and hallooed to him; didn't mind; defendant threw stones,—none hit him. I went out and when I came up to Dodder he said defendant had thrown stones at him but he had managed by jumping and dodging not to have any hit him.

The testimony here closed.

The defendant then proceeded to sum up the cause. His Honor dropped his pen; the jury leaned forward; the members of the bar were winking and nodding to one another, and a universal titter pervaded the room.

He commenced,—and his sharp, shrill voice drowned all else:

"Gentlemen of the Jury: This is the first time I was ever in such a pickle,—never did I before appear before a jury of my country. This Mr. Dodder has brought me here, and I have to appeal to you not knowing whether you are 'Woolly Heads,' 'Silver Greys,' 'Hard Shells,' or 'Soft Shells.' But I think this Dodder will find out before I am through that I am a 'harder shell' than he imagined.

"You know, gentlemen, that I am in the employ of the Mouquaup Valley, Forrestburgh and Port

Jervis Plankroad Company as a gate-keeper. This company, it seems, had sufficient confidence in my integrity and honesty to place me in that important station, and even if I should receive \$3,000 and steal \$1,500 of it that is between me and the company, and it's none of Dodder's business.

"Now when this company sent me up along this road to collect tolls this Dodder was one of the inhabitants *I found there in the woods*, and I will say for him that he is a very fair specimen of the rest of the population. But there isn't any of them that appreciate all the benefits of this Plank Road.

"It let out to civilization a class of people who never before had an idea there was such a thing as civilized life,—*and this Dodder is one of them*. It is a fact that soon after I moved up there a young woman, sixteen years old, came down out of the mountains on the Plank Road, one day, and she had never been out before. She fairly seemed surprised to see a *white man* and after asking a few questions went back into the woods. This Dodder was my nearest neighbor, and a good deal nearer than I wanted him, and I hadn't been there long before I heard that he had been lying about me to one of the directors, and I soon found out that he wanted to get his son, who was sworn here against me, in my place. But he hasn't done it yet and if you don't convict me I reckon he won't very soon.

"I won't take long to dispose of Dodder No. 2. He testifies that he saw me throw three stones at his father and saw the old man 'dodge.' On cross-examination he says that he was in his own house, *in the woods*, and had to look over a hill twenty feet high and also over three slab fences and two stone-walls. Well, if he tells the truth all I wish is that I had young Dodder's eyes! He certainly is a remarkable boy and can't deny his 'father.'

"I am willing to admit that I done wrong in throwing stones at Dodder and I apologize to all the world, and this county particularly, for it. The doctors tell us that there are two causes for all diseases,—pre-disposition and excitability—I think it was the latter cause that moved me to stone Dodder.

"I therefore confess myself guilty of the assault, but the battery I *deny*,—and if you find me guilty of the battery I will appeal from the decision to the Court of High Heaven itself before I will submit to it.

Now, gentlemen, you saw Mr. Dodder and heard him swear against me. I asked him a great many questions and I was sorry to hear him answer as he did. I might have asked him more questions,—I might have asked him if he didn't kill my *cat* and if he didn't stone my chickens because they trespassed in his woods, where actually the rocks are so thick that the cats can't find their way up through them. But then I knew he would deny it and it would grieve me to hear him.

"He admits that he was driving my three cows up the road and that he struck at one of 'em, but says it was with a small switch. I have proved that this 'switch' was a pole about ten feet long and about two inches across the butt end, and I have also proved that when he struck *the cow fell*. It is true my witness couldn't swear that the stick hit her, he was so far off, but take the blow and the fall together and we can guess the rest. If you gentlemen should see me point a gun at a man and pull the trigger, see the flash and hear the report and at the same time see the man drop, I think you would say that I shot him although you might not see the ball strike him.

"Now the fact is, gentlemen, that on Sunday I was lying on my lounge in my house when my wife said that Dodder was chasing my cows. I jumped up and pulled on my boots and went

out of doors and saw Dodder and the cows coming up the road. It is true he says that he was not driving them, but says he and the cows was both going along the road *in one direction*—and this is as near as I could get him to the cows or to the truth. But it is proved that the cows were going along ahead of him and he was following after them striking at them with his little switch ten feet long and two inches across the butt, and I reckon you'll think he was driving them.

"I sung out to him 'Dodder, stop!' but he didn't mind my order and I just threw a stone in that direction, which went about fifteen feet over his head,—at the same time going towards him. He paid no attention and I sung out again, 'Dodder, stop!' Still he didn't mind me and then I just threw another stone;—but on he came and on I went and I threw the third stone which he says hit him on the back of the neck, but this I think is rather strange as we were going towards each other as fast as we could go. But he never slacked up and by this time we were within about eight feet of each other. I halted and hallooed at the top of my voice, "*'Dodder, why in h--l don't you stop!'*" About then he did stop and raised his ten-foot 'switch' as if to strike me. I sang out, 'Mr. Dodder, look out! You may wallup my cows but if you wallup me with that switch you'll wallup an animal *that'll hook*—(Here the orator made a gesture with his head as if in the act of hooking, which was followed by tumultuous shouts and laughter that continued several minutes).

"Now, gentlemen, if you convict me this court can fine me \$250 and jug me for six months and if you really think I ought to be convicted of this assault say so, for I am in favor of living up to the laws so long as they are laws, whether it is the Fugitive Slave Law, the Nebraska bill, or the Excise Laws. I will read you a little law how-

ever which I have just seen in a book I found here"—(the speaker picked up a book and read as follows): " 'Every man has a right to defend himself from personal violence.' Now I don't know whether that is a law or not but I find it in a law book"—(a veteran member of the bar who was sitting near the speaker remarked to him that it was good law). "Well, gentlemen, here is an old man who looks as if he might know something and he says it's good law. Now if you will turn to Barbour—something—page 399 you will find the same doctrine applies to *cattle*—(great laughter). Therefore I take it I had a right to defend my cows against Dodder's ten-foot 'switch.' Why, gentlemen, nearly all my wealth is invested in them three cows and you can't wonder that I became a little excited when I saw Dodder switching them with this ten-foot pole. I am a poor man and have a large family, consisting of a wife and six children, which I reckon is doing very well for as small a man as I am and I couldn't afford to let Dodder kill my cow!"

"Now, gentlemen, I don't believe you'll convict me after what I have said, but if you do and this court fines me \$250 I shall 'repudiate,' because I can't pay. And if I am jugged for six months why these Dodders will have it all their own way up there. But notwithstanding all this I am willing to risk myself in your hands, and if you think I ought to have stood by and not done anything when I saw Dodder hammering my cows why then I am 'a goner'—toll-gate and 'all.'

"It is true I am a poor man, but not a mean one. The name of Allington can be traced to the Mayflower. When she landed the pilgrims on Plymouth Rock among the passengers was a widow, Mary Allington, with four fatherless children, and I am descended from that Puritan stock; and from that day to this there has never lived an Allington who hadn't Yankee spirit enough to

stone a Dodder for poling his cows. *I'm done.*"

Roars of laughter,—during which the defendant took his seat. After a few words from his Honor the jury retired and in a few minutes returned with a verdict of *Not Guilty!*

Old Dodder and Dodder No. 2 were at that instant seen plunging down the stairs leading to the court yard with unbounded powers of locomotion; when the yard was reached they fairly ran and it is supposed never stopped until the deep woods of Minisink hid them from the gaze of men.

Allington heard the verdict with the sang froid of a philosopher. No emotion was observable other than taking an extra quid of tobacco into his mouth.

It may be as well to remark that the District Attorney declined to be pitted against his eloquent opponent and let the cause go by default as he said not a word in reply to the defendant's speech. The District Attorney was in a tight place and took the wisest course to get out. It is not often he meets with such a formidable prisoner.

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